

Policy and Sustainability Committee

10.00am Thursday 22 August 2024

Self-Directed Support – Policy

Executive/routine
Wards

1. Recommendations

It is recommended that Policy and Sustainability Committee:

- 1.1 approve a Self-Directed Support Policy for the City of Edinburgh Council.

Pat Togher

Chief Officer, Edinburgh Health and Social Care Partnership

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Self-Directed Support Policy

2. Executive Summary

- 2.1 The Social Care (Self Directed Support) (Scotland) 2013 Act sets out the way that social care and support is delivered in Scotland, making the principles of choice and control central to decision making and giving individuals the full opportunity to take control of their support and their lives.
- 2.2 Although assessment frameworks and procedures have been in place to deliver the elements of Self-Directed Support (SDS), an overarching SDS policy is required to ensure that the City of Edinburgh Council (the Council) is clear regarding its implementation of the legislation and associated statutory guidance.

3. Background

- 3.1 The Social Care (Self Directed Support) (Scotland) Act 2013, was implemented on 01 April 2014, and places a duty on local authorities:
 - 3.1.1 to have regard to the general principles of, involvement, informed choice, and collaboration as part of the assessment and the provision of support.
 - 3.1.2 to take reasonable steps to facilitate the person's dignity and participation in the life of the community in which the person lives.
 - 3.1.3 to offer four options to the supported person based on their assessment of eligible need.
 - 3.1.4 to explain the nature and effect of the four options and to signpost to other sources of information and additional support (applies to adults, children/families, adult carers, and young carers).
- 3.2 There have been a number of developments in recent years that the policy should reflect. Specifically, the statutory guidance produced to support the delivery of Social Care (Self Directed Support) (Scotland) Act 2013 which was revised in November 2022 to take account of changes and developments in practice since the

legislation initially came into being. This procedure will also ensure the full and consistent implementation of Direct Payment procedures for adults and children.

4. Main report

- 4.1 The values and principles that underpin Self-Directed Support are embedded into our assessment frameworks and are as follows:
- 4.1.1 **Collaboration, Dignity, Informed Choice, Involvement and Innovation** – We will work alongside and respect the individual’s right to dignity throughout the assessment and support planning process. This will be achieved by ensuring that information and support is available that enables real choice and control and, as a consequence, the ability to be innovative in achieving personal outcomes.
- 4.1.2 **Participation, Responsibility and Risk Enablement** – We will support and encourage individuals to take as much choice and control over their care and support as safely possible. We will openly discuss personal responsibility and adopt a risk enabling approach that promotes choice and control and details how any potential risks can be managed. We will also work with individuals to ensure they are free from any form of exploitation and/or abuse.
- 4.2 The Self-Directed Support National Framework of Standards were published by the Scottish Government in August 2022. The twelve standards were developed by Social Work Scotland and are designed to increase outcomes and consistency for services users (adults and children) across key elements of self-directed support. Through this policy, the Council is committed to ensuring that the standards are incorporated into both procedures and practice.

5. Next Steps

- 5.1 This key policy meets the Council’s requirement for having up to date policies describing agreed courses of action or sets of standards for this area of practice. This policy will be maintained by the Chief Social Work Officer who will ensure its continued relevance, and its compliance with legislation.
- 5.2 The policy was presented to the Edinburgh Integration Joint Board Clinical and Care Governance Committee where it was accepted subject to the production of a full Integrated Impact Assessment.

6. Financial impact

- 6.1 There are no immediate and direct financial implications attached to this policy which reflects the existing practice. However, the provision of services does have a financial element and, specifically, when service users opt to take Direct Payment

as an alternative to arranged services. A robust procedure for the management and oversight of Direct Payments ensures that funds are used for their intended purposes.

7. Equality and Poverty Impact

- 7.1 The Self-Directed Support Policy promotes the general principles of involvement, informed choice, and collaboration as part of the assessment and the provision of support. These underpinning principles apply to any person from our communities, no matter their race, ability, sex, gender, level of personal income or any other defining characteristic.
- 7.2 An Integrated Impact Assessment has been undertaken to support the production of this policy.

8. Climate and Nature Emergency Implications

- 8.1 This updated policy and procedure has no climate or nature emergency implications.

9. Risk, policy, compliance, governance, and community impact

- 9.1 The SDS policy ensures that the Council has a clear position in relation to SDS practice which complies with legislative duties and revised national guidance.
- 9.2 There are no identified risks attached to the SDS policy, and adoption is key to Edinburgh being legislative and best practice compliant.

10. Background reading/external references

- 10.1 [Social Care \(Self Directed Support\) \(Scotland\) 2013 Act](#)
- 10.2 [Social Care \(Self-directed Support\) \(Scotland\) Act 2013: statutory guidance](#)
- 10.3 [Social care - self-directed support: framework of standards](#)

Self-Directed Support Policy

Implementation date: **1 September 2024**

Control schedule

Approved by		Children, Education and Justice Services and Edinburgh Health and Social Care Partnership	
Version	Date	Author	Comment
0.1	01/05/2024	Michelle Kirkpatrick Robert Smith Reviewed Rose Howley	

Subsequent committee decisions affecting this policy.

Date	Committee	Link to report	Link to minute
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Self-Directed Support Policy

Policy statement

1. The Social Care (Self Directed Support) (Scotland) 2013 Act sets out the way that social care and support is delivered in Scotland, making the principles of choice and control central to decision making and giving individuals full opportunity to take control of their support and their lives. The legislation associated principles of the self-directed support builds on the core elements of the Social Work (Scotland) Act 1968 and the duties and responsibilities placed on Local Authorities to meet the welfare needs of their citizens
2. This policy ensures consistency with the statutory guidance produced to support the delivery of Social Care (Self Directed Support) (Scotland) Act 2013 which was revised in November 2022 to take account of changes and developments in practice since the legislation initially came into being.
3. This policy ensures that the Health and Social Care and Children, Education and Justice Services follow the Social Care (Self Directed Support) (Scotland) 2013 Act and the Community Care (Direct Payments) (Scotland) Regulations 2003, the Community Care (Direct Payments) (Scotland) Amendments Regulations 2007, the Direct Payments Scotland Regulations 2014.

Scope

4. The Social Care (Self Directed Support) (Scotland) Act 2013, which was implemented on 01 April 2014, places a duty on local authorities:
 - a. to have regard to the general principles of, involvement, informed choice, and collaboration as part of the assessment and the provision of support.
 - b. to take reasonable steps to facilitate the person's dignity and participation in the life of the community in which the person lives.
 - c. to offer four options to the supported person based on their assessment of eligible need.
 - d. to explain the nature and effect of the four options and to signpost to other sources of information and additional support (applies to adults, children/families, adult carers, and young carers.
 - e. the Policy applies to adults, children/families, adult carers, and young carers.

5. The values and principles that underpin Self-directed Support are embedded into the assessment framework and are as follows:
 - a. **Collaboration, Dignity, Informed Choice, Involvement and Innovation**
- We will work alongside and respect the individual's right to dignity throughout the assessment and support planning process. This will be achieved by ensuring that information and support is available that enables real choice and control and as a consequence, the ability to be innovative in achieving personal outcomes.
 - b. **Participation, Responsibility and Risk Enablement** - We will support and encourage individuals to take as much choice and control over their care and support as safely possible. We will openly discuss personal responsibility and adopt a risk enabling approach that promotes choice and control and details how any potential risks can be managed. We will also work with individuals to ensure they are free from any form of exploitation and/or abuse.
6. The Self-Directed Support National Framework of Standards were published by the Scottish Government in August 2022. The twelve standards were developed by Social Work Scotland and are designed to increase outcomes and consistency for services users (adults and children) across key elements of self-directed support. Through this policy, the City of Edinburgh is committed to ensuring that the standards are incorporated into both procedures and practice.
7. The legal basis for assessment of need remains within the following core legislation:
 - a. Social Work (Scotland) Act 1968
 - b. Children (Scotland) Act 1995
 - c. The Children and Young People (Scotland) Act 2014
 - d. Carers (Scotland) Act 2016
 - e. Self Directed Support legislation also contains links to the following other legislation:
 - i. The Community Care and Health (Scotland) Act 2002
 - ii. The Mental Health (Care and Treatment) (Scotland) Act 2003
 - iii. Adult Support and Protection (Scotland) Act 2007
 - iv. Adults with Incapacity (Scotland) Act 2000
 - v. The Children and Young People (Scotland) Act 2014
 - vi. The Public Bodies (Joint Working) (Scotland) Act 2014
 - vii. Public Contracts (Scotland) Regulations 2015
 - viii. Procurement Reform (Scotland) Act 2014

- ix. Health, (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016
- x. Equality Act 2010

Definitions

DP	Direct Payment
Local Authority	City of Edinburgh Council
SDS	Self Directed Support
SDS Act	Self Directed Support (Scotland) Act 2014
The Regulations	Self Directed Support (Direct Payments) (Scotland) Regulations 2014

All other terms and abbreviations used have been clearly defined and explained.

Policy content

8. Anyone assessed as eligible for non-residential social care support has **four** options of self-directed support:
 1. The making of a Direct Payment (DP) by the local authority to the individual for the provision of support.
 2. The ability to 'direct' their own support package and ask the local authority or a third-party organisation to procure and manage that package on their behalf. This is also known as an Individual Service Fund (ISF).
 3. The selection of support for the individual by the local authority to choose, make arrangements for and manage their support package on their behalf.
 4. The selection by the individual a combination of any of the three options above.
9. The principles and definitions within this policy apply to all the four options carried out by or on behalf of the local authority. There should be no assumption that the local authority or assessor consider any option as a preferred or default option.
10. Assessment, the provision of information and the identification of resources are all part of the same co-produced process, which starts with a good conversation and ends in a budgeted (if budget is required) support plan and the offer of the four SDS options.
11. Those primarily involved in establishing assessed eligible need are local authority employees in the following roles; social workers, occupational therapists, community care assistants, and social work assistants and working within the

Edinburgh Health and Social Care Partnership and Children, Education and Justice Services.

12. The Scottish Government have published a Self-Directed Support Improvement Plan 2023-27. The plan identifies the need for a whole-system approach to delivering self-directed support across statutory, third-sector and independent providers. Through this policy, the City of Edinburgh Council is committed to contributing towards the implementation and delivery of the Improvement Plan.

Limits to Choice

13. There may be instances where the individual will not be able to choose a particular option or type of support.
14. In line with the Self-Directed Support (Direct Payments) (Scotland) Regulations 2014, the local authority is not required to give individuals the option of choosing Option 1 and so far as relating to that option, Option 4, in the following circumstances:
 - a. The local authority previously terminated a Direct Payment (DP) made to the person.
 - b. There is evidence that the provision of a DP is likely to put the safety of the person to whom the support is provided or others at risk.
 - c. Where the individual has been assessed as requiring long-term residential care.
 - d. Where the individual currently resides in prison.
15. The Regulations also state that Option 1 (Direct Payments) cannot be offered to persons whose assessed eligible need calls for long-term residential/nursing care.
16. Certain care and support services where they are linked to multiple-occupancy or group-tenancy accommodation arrangements (often called Supported Accommodation) are not suitable for Self-Directed Support Options 1 or 2 (and so far as relating to that option, Option 4). This is due to the potential impact upon the tenancy rights of other tenants and the overall coordination of care, support and safety within the accommodation.
17. In line with section 12a(5) of the Social Work (Scotland) Act 1968 relating to the power to provide support without an assessment, where there is an urgent need to provide community care the local authority can provide or arrange support without the need for a full assessment, and therefore without offering the four SDS Options. However, a review of the care put in place should be reviewed within a reasonable timeframe.
18. More detailed guidance and information on Self Directed Support can be found on the [Scottish Government website](#).

Implementation

19. Once agreed, the policy document along with supporting procedures and materials will be made available to staff via the Orb. It will also be made available to members of the public via the Policy Register on the City of Edinburgh Council's website.

Roles and Responsibilities

20. All relevant Edinburgh Health and Social Care Partnership and Children, Education and Justice Services staff are responsible for complying with this policy including agency staff.

Integrated impact assessment

21. Integrated Impact Assessment has been completed in relation to this policy.

Risk assessment

22. Failure to adopt this policy and contents carry the following risks:
 - a. Non-compliance with Social Care (Self Directed Support) (Scotland) 2013 Act as it is a requirement to offer four options following assessment of need.

Review

This policy will be reviewed every 2 years, or more frequently due of changes to legislation or statutory guidance.

Associated Documents

- [The Social Work \(Scotland\) Act 1968 \(guidance on the sections relating to direct payments\)](#)
- [The Children \(Scotland\) Act 1995](#)
- [The Community Care \(Direct Payments\) Act 1996](#)
- [Regulation of Care \(Scotland\) Act 2001](#)
- [Community Care and Health \(Scotland\) Act 2002](#)
- [Community Care \(Direct Payments\) \(Scotland\) Regulations 2003](#)
- [National Health Service Reform \(Scotland\) Act 2004 \(asp 7\)](#)
- [The Community Care \(Direct Payments\) \(Scotland\) Amendment Regulations 2005 \(SSI 2005 No. 114\)](#)
- [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Subordinate Legislation\) Order 2005 \(SSI 2005 No. 445\)](#)

- [The Disability Equality Duty \(DED\) as enacted 2006](#)
- [Adult Support and Protection \(Scotland\) Act 2007](#)
- [The Community Care \(Direct Payments\) \(Scotland\) Amendments Regulations 2007 \(SSI 2007 No. 458\)](#)
- [The Social Care \(Self-directed Support\) \(Scotland\) Act 2013](#)
- <https://www.gov.scot/publications/carers-scotland-act-2016-statutory-guidance-updated-july-2021/pages/1/>
- [Direct Payments procedure](#)

Further information:

- The full 2013 Act here: <https://www.legislation.gov.uk/asp/2013/1/enacted>
- Original 2014 Statutory Guidance here: <https://www.gov.scot/publications/statutory-guidance-accompany-social-care-self-directed-support-scotland-act-2013/pages/8/>
- Full text of the 2014 Regulations here: <https://www.legislation.gov.uk/ssi/2014/25/made>
- Existing SDS Practitioner Guidance at <https://www.gov.scot/publications/self-directed-support-practitioners-guidance/pages/6/>
- More information on human rights in Scotland at <https://www.scottishhumanrights.com/projects-and-programmes/human-rights-based-approach/>
- Audit Scotland Self-directed Support report (PDF): https://www.audit-scotland.gov.uk/uploads/docs/report/2017/nr_170824_self_directed_support.pdf
- My Support My Choice reports: <https://www.sdsscotland.org.uk/mysupportmychoice/>
- National Care Service, visit: <https://www.gov.scot/policies/social-care/national-care-service/>
- SDS Framework of Standards: <https://www.gov.scot/publications/self-directed-support-framework-standards-including-practice-statements-core-components/documents/>
- Getting it right for every child, and guidance on Children and Young People (Scotland) Act 2014 Part 12: Services in Relation to children at risk of becoming Looked After: <https://www.gov.scot/publications/children-young-people-scotland-act-2014-national-guidance-part-12/documents/>

- The 2014 Act: <https://www.legislation.gov.uk/asp/2014/8/contents/enacted>, which made some amendments to the 1995 Act (<https://www.legislation.gov.uk/ukpga/1995/36>)
- The Carers Charter: <https://www.gov.scot/publications/carers-charter/>

SDS Standards

<https://www.sdsscotland.org.uk/updated-sds-standards-published/>

SDS Statutory Guidance – Social Care Self Directed Support Scotland:

<https://www.gov.scot/publications/statutory-guidance-accompany-social-care-self-directed-support-scotland-act-2013-2/pages/3/>