

Self-directed Support in Northern Ireland

Part 2 – THE PROCESS



At a glance

Self-Directed Support is currently being rolled out by the five Health and Social Care Trusts (HSC Trusts) in Northern Ireland.

Law Centre (NI) Legal Information Briefing *Self-Directed Support in Northern Ireland. Part 1* explained what Self-Directed Support is and the different forms of Self-Directed Support available in Northern Ireland: www.lawcentreni.org/Publications/Law-Centre-Information-Briefings/CC-briefing-38-Self-directed-support-1-Law-Centre-NI-Feb-17.pdf

Self-Directed Support in Northern Ireland. Part 2 examines how people can access Self-Directed Support and the role of HSC Trust professionals in facilitating an individual service user/carer's request for Self-Directed Support.

The briefing is aimed at helping HSC Trust staff understand and implement the Self-Directed Support process. It is also intended for individuals and advisers requiring more information on this new Regional Initiative.

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Introduction

In June 2015, the Health and Social Care Board (HSC Board) announced the launch of Self Directed Support across Northern Ireland. Following the operation of a pilot programme by the Southern Health and Social Care Trust over a number of years, Self-Directed Support is currently being rolled out by the five Health and Social Care Trusts (HSC Trusts) in Northern Ireland.

In November 2015, Guidance (the Guidance) entitled *Self-Directed Support: Practitioner Guide* was developed and agreed regionally between the HSC Board and all HSC Trusts as part of the implementation of Self-Directed Support in Northern Ireland. It is aimed at helping HSC Trust staff understand and implement the Self-Directed Support process. The Guidance is also a useful tool for individuals and advisers requiring more information on this new Regional Initiative.

Law Centre (NI) Legal Information Briefing *Self-Directed Support in Northern Ireland. Part 1* explained what Self-Directed Support is and the different forms of Self-Directed Support available in Northern Ireland¹.

This briefing, *Self-Directed Support in Northern Ireland Part 2*, examines how people can access Self-Directed Support and the role of HSC Trust professionals in facilitating an individual service user/carer's request for Self-Directed Support.

1. Self-Directed Support process

The Guidance anticipates that there will be variances in how SDS is implemented within each HSC Trust. However, it also sets out a number of key stages in the SDS process which will be followed by all HSC Trusts.

1.1 Referral

The first step in the process is referral. The Guidance anticipates that individuals may engage with the HSC Trust for a number of reasons and in differing circumstances. Some may require advice and assistance which will be best supported through the provision of information and signposting.

¹ Available at: <http://www.lawcentreni.org/Publications/Law-Centre-Information-Briefings/CC-briefing-38-Self-directed-support-1-Law-Centre-NI-Feb-17.pdf>

Others may require additional support in the form of an assessment of needs and/or services. Often, individuals may be referred to the HSC Trust by another person/organisation. The Guidance requires that in any case, clear information be provided to both the individual and the referrer about the purpose of any HSC Trust involvement in the individual's life.

On receipt of a referral, the HSC Trust will screen cases in line with HSC Trust protocols.²

1.2 Assessment

The Guidance requires that when processing a request for SDS, the usual assessment frameworks should be used to assess the individual's needs, strengths and risks. For adults, this is the Northern Ireland Single Assessment Tool (NISAT) and for informal carers it is the Carer Assessment. Other assessment tools may also be used for specialist HSC Trust programmes. Whatever the assessment tool used, the level of assessment should be proportionate to the individual's presenting needs, risks and circumstances.

SDS requires that Key Workers adopt a holistic, person centred approach to assessment of need which works in partnership with the individual being assessed and considers the individual's views and those of other key people involved in their life (which may include informal carers).

The assessment should consider the individual's needs and what is important to them (including the outcomes they wish to achieve through the provision of care/support and how these outcomes will be met). The assessment should also respond to an individual's changing circumstances and needs as appropriate. Consideration should be given to the individual's strengths and existing resources and community networks.

Risks must also be considered during the assessment process. The Guidance acknowledges that where a risk is identified to the adult concerned, the principles of SDS still apply but that risks must be explored from a protective perspective. Risks must be understood and balanced against the consequences of any proposed actions.

During the assessment process, Key Workers are expected to provide information about SDS to individuals and/or their representatives to enable them to make informed decisions about the four SDS options and what makes a good Individual Support Plan.

² Please consult individual HSC Trust websites for more information on screening protocols applicable to each HSC Trust

1.3 Eligibility criteria

As is the case with many HSC Trust services/supports, access to a Personal Budget is informed by the application of eligibility criteria by the HSC Trust. Entitlement is not automatic. Rather, to be eligible for a Personal Budget, the individual being assessed must meet the following criteria:

- be assessed by the HSC Trust as meeting current eligibility criteria for a social care service (HSC Trusts are required to use existing mechanisms of allocating resources such as resource panels or approval by senior management);
- be willing to receive and able to consent to a way of accessing their Personal Budget (for example via any of the four options available or a mixture of options). The individual or their representative must agree to and understand what receiving a Personal Budget will mean and the conditions which may be attached;
- be able to manage their Personal Budget with as much help as they need;
- where the individual wishes to avail of a Direct Payment as a form of SDS, current Regional Direct Payment Guidance must be followed.³In addition, under DHSSPS Circular HSC (ECCU) 01/2012, a legally authorised person can receive and manage Direct Payments on behalf of an individual who is unable to give their consent.⁴

Where an individual is not eligible to receive a Personal Budget, the Guidance requires that they are signposted to other areas where assistance may be available (for example community or voluntary sector organisations).

1.4 Resource allocation

Where an individual is eligible to receive a Personal Budget, they should be notified of the details of their Personal Budget. This should be through a letter of offer of their Personal Budget provided to them within HSC Trust agreed timescales.⁵

1.5 Support planning

Following allocation of their Personal Budget, the Key Worker must agree the outcomes which the individual wishes to achieve from their Support Plan and how their needs will be met via the use of their Personal Budget.

³ Entitled 'Direct Payments: Legislation and Guidance for Boards and Trusts' (April 2004) available at <https://www.health-ni.gov.uk/sites/default/files/publications/dhssps/leg-borads-trusts.pdf>

⁴ Entitled 'Direct Payments for Persons who Lack Capacity to Consent: Interim Guidance' available at <https://www.health-ni.gov.uk/sites/default/files/publications/dhssps/eccu-1-2012-circular-direct-payments-lack-capacity-to-consent.pdf>

⁵ No information is available in the Guidance to confirm the specific timeframes applicable for each HSC Trust

The Guidance reminds HSC Trust staff that effective support planning seeks to promote the independence, health and wellbeing of individuals, while at the same time giving them more choice and control over the support they receive.

The Individual Support Plan must be completed in partnership with the Key Worker and must facilitate the involvement (as appropriate) of the individual, their representative, friends and family of the individual and/or any Independent Support Planners. An individual cannot prepare their own Support Plan but their views should guide the preparation of the Support Plan as much as possible.

The individual must be central to the process of devising the Individual Support Plan. Support Plans should be realistic and achievable. Risks must be identified and managed effectively. Individuals should be enabled to define their own risks and to recognise, identify and report abuse, neglect and safeguarding issues. The individual and their family should have informed choice when managing risk.

The Guidance recommends that the following areas should be explored and form the basis of the Support Plan:

- What is important to you?
- What do you want to change and achieve?
- How will you be supported?
- How will you use your Personal Budget?
- How will your support be managed?
- How will you stay in control?
- What are you going to do to make this happen?

1.6 Agreeing the Support Plan

Having completed the assessment process and having identified and analysed the individual's strengths, needs, risks and capacity, the Support Plan will consider how these needs and outcomes can be best met.

The Guidance reminds practitioners that the guiding principles for validation of the Support Plan are that the plan must be lawful, effective and affordable, meet assessed need and deliver agreed outcomes.

The Support Plan should be agreed with the individual and/or their representative, the Key Worker and the Key Worker's line manager.

In all cases, the Key Worker is required to ensure that:

- the Support Plan has been agreed by the individual and/or their representative and signed off by the Key Worker and their line manager;
- all identified risks have been considered and where issues surrounding risks require approval at a higher level within the HSC Trust that this is managed within Trust protocols;
- the Support Plan meets the individual's assessed needs and agreed outcomes;
- the Support Plan is within the resources allocated within the individual's Personal Budget.

The HSC Trust can refuse to agree to any element of a Support Plan where the support would:

- unreasonably endanger any individual or put their safety at risk;
- support an illegal act;
- involve gambling or financial investment;
- fund health care;
- pay for anything that other sources of income would usually cover;
- not contribute to the agreed outcomes within the Support Plan.

1.7 Assisting the individual to implement their Support Plan

During the support planning process, the individual and/or their representative will have considered which of the options available best suits their circumstances and needs, such as Direct Payment, Managed Budget, HSC Trust arranged services or a mix of these options.

HSC Trusts should use the appropriate procedure relating to the chosen option to organise implementation of the Support Plan.

1.8 Monitoring and review

HSC Trusts are required to monitor and review the arrangements in place to meet the individual's assessed eligible needs and the Support Plan in line with HSC Trust policy, for example where the individual's needs or circumstances change.

At the person-centred review, both the individual's needs and circumstances and the agreed outcomes should be considered to determine if these are being met in the Support Plan.

The review should take into account the views of the individual and/or their representative with regard to issues such as:

- is the Support Plan working?
- do they feel safe in their own home and community?

- their level of social inclusion;
- their personal development;
- any caring role they undertake.

2. Adults without capacity to consent to receiving a Personal Budget

The Guidance confirms that a Key Worker may be working with an individual who is supported by someone else (for example due to a lack of capacity to make their own decisions or diminishing capacity to decide on matters arising).

During the assessment stage of the SDS process (where it is believed that the individual being assessed may have capacity issues), the Key Worker must ensure that appropriate information and support is given to the individual to enable their participation in the process.

The Guidance anticipates that the individual may benefit from having a Personal Budget but be unable to give their consent. The Guidance confirms that the person supporting the individual can receive and manage a Personal Budget on their behalf. It is unclear from the Guidance whether the person supporting the individual will be required to be legally appointed to act in this capacity in every instance. However, following the decision in the case of *PF and JF*⁶, it is established that legal authority is required where a third party is managing Direct Payments on behalf of an adult without capacity.

The Key Worker is expected to explore with the individual and relevant others the four options available under SDS and provide accessible information to inform the decision-making process.

3. Carers and SDS

Separate Guidance has been issued by the HSC Board entitled *Introduction to Self-Directed Support for Carers: Find out if Self-Directed Support is Right for You*.⁷ It is clear from this

⁶ For more information on the facts and implications of this case, please see Community Care Information Briefing Number 28 entitled 'Direct payments for adults who lack capacity to consent' available at <http://www.lawcentreni.org/Publications/Law-Centre-Information-Briefings/Community%20care%20briefings/Community-Care-Information-Briefing-28-Direct-Payments-March-2013.pdf>

⁷ Available at http://www.hscboard.hscni.net/download/PUBLICATIONS/SELF%20DIRECTED%20SUPPORT/Frequently_Asked_Question_f_or_Carers.pdf

Guidance that SDS is also available to carers to meet their needs subject to the application of relevant eligibility criteria.

4. Conclusion

The implementation of SDS in Northern Ireland represents a significant development in the approaches taken by HSC Trusts to discharge their statutory duties to assess and meet social care needs. It represents a shift in the methods used by HSC Trust to assess needs towards one which is based more on the realisation of identified, agreed and individualised outcomes in keeping with the ethos of person centred planning, It also signifies a change in how services will be delivered with more emphasis on individual autonomy and control in keeping with the increased importance placed on personalisation by Transforming Your Care.

Independent Advice, Support and Mediation Service (Community Care)

The Law Centre's Independent Advice, Support and Mediation Service (Community Care) runs a specialist advice line and representation service.

How we can help you

We provide advice and assistance to:

- adults who have needs due to physical or mental disability, ill health or age,
- adults with sensory disabilities, and
- adults whose needs arise because of their role as carer.

We can help in cases which raise issues concerning the legal responsibilities of health and social care trusts and other public bodies in the provision of health and social care.

We also welcome calls from health and social care staff, other healthcare providers and advisers.

Our advice line: 028 9024 4401, Monday to Friday, 9am to 1pm and 2pm to 5pm, out of hours voicemail service available

We also run a regional advice clinic service, please contact us for further information.

We advise in all areas of community care, including:

- needs assessments
- provision of services
- direct payments
- benefits and community care
- grants for home improvements for people with disabilities
- services for young adults transitioning from Children's Services
- financing residential and nursing home care
- carer's assessments
- capacity and decision making in social care
- human rights issues and social care

Representation service - We resolve the majority of cases through negotiation with HSC Trusts and service providers.

Where necessary, we initiate judicial review proceedings in the High Court to clarify interpretation of health and social services law and/ or to challenge decisions made by public bodies or HSC Trusts. We can pursue appeals to the Court of Appeal and beyond where necessary.

Training - We provide training for health and social care staff and for advisers working in the field of community care. For more information on courses available, visit: [Law Centre NI training](#).

More information

Consult our website for more information on the service and on health and social care legal issues: www.lawcentreni.org

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