

# *Self Directed Support Policy*



Updated July 2023

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## Section 1: Introduction

- 1.1 In November 2010 the Scottish Government published a 10-year Strategy to develop Self Directed Support with the aim of delivering a new vision for social care delivery, based around the person as a citizen and not the service. Following the completion of the 10 year Strategy, this was replaced by national Self Directed Support Improvement Plans with the most recent Plan dated 2023 – 2027. <https://www.gov.scot/publications/self-directed-support-improvement-plan-20232027/pages/2/>
- 1.2 On 1<sup>st</sup> April 2014, The Social Care (Self Directed Support) (Scotland) Act 2013 came into force and placed duties on all Local Authorities to ensure that individuals and families have real choice and control in social care support through the effective delivery of self directed support.
- 1.3 East Dunbartonshire Health and Social Care Partnership (HSCP) is committed to continuing to transform the way that social care support is provided within its communities, ensuring a personalised approach to supporting individuals and enabling the HSCP to meets the challenges that it faces in relation to changing demographics and increased demands for support.

## Section 2: Principles and Values

- 2.1 Self directed support is the mainstream route for delivering social care and support to eligible service users, including carers. It involves working together and taking a joint approach to assessment and support planning. This ensures that the individuals are fully engaged in the process. This process helps to identify the service users' and carers' eligible needs and determines the outcomes that the individual wants to achieve.
- 2.2 Self directed support is a way of organising social care and support so that the service user and/or carer can take control of their lives and fulfil their roles as citizens. It offers the individual the opportunity to choose from a number of options which will provide them with more control and choice over how, where, when and who delivers the support services that will meet their eligible assessed needs and outcomes.
- 2.3 The values that underpin self directed support are put into practice through the application of the principles:

**Collaboration, Dignity, Informed Choice, Involvement, Innovation, Participation, Responsibility and Risk Enablement.**

Each service user and/or carer must have as much involvement as they wish in relation to the identification of their needs and the provision of support.

Each person must be provided with any assistance that is reasonably required to enable them to express any views they may have about the options for self directed support and to make an informed choice when choosing an option.

The HSCP must collaborate with the service user and/or carer in relation to their assessment/identification of needs and the provision of the support and services.

The HSCP must take reasonable steps to facilitate that the right to dignity of the service user and/or carer is to be respected and that their right to participate in the life of the community in which they live is to be respected.

Service users and carers should have control and choice over how they live their lives, including what support they receive and the management of their support.

Support plans and services must be personalised around the assessed eligible needs and outcomes of the service user and carer.

Service users and carers must be offered, and given where appropriate, more responsibility for planning and managing their support.

As far as possible, each individual can use resources flexibly to allow them to tailor their support to best meet their eligible support needs.

It is recognised that not all service users and carers have the desire, willingness or capacity to plan and meet their own support needs and outcomes using particular self directed support options. Where this is the case, the individual will be supported under self directed support option 3 and they will continue to be fully involved in the assessment and support planning process and will be supported to have as much choice as possible.

### **Section 3: Legal Context**

3.1 The Social Care (Self Directed Support) (Scotland) Act 2013 places a duty on the HSCP to offer the service user and/or carer four self directed support options based on their assessment/identification of eligible needs. The legal basis for assessment/identification remains within the following core legislation:

- Social Work (Scotland) Act 1968
- Children (Scotland) Act 1995
- The NHS and Community Care Act 1990
- Community Care and Health (Scotland) Act 2002
- Chronically Sick and Disabled Persons Act 1970
- Mental Health (Care and Treatment) (Scotland) Act 2003
- Adults with Incapacity (Scotland) Act 2000

- The Regulation of Care (Scotland) Act 2001
- The Adult Support and Protection (Scotland) Act 2007
- Children (Scotland) Act 1995
- Carers (Scotland) Act 2016
- Data Protection Act 2018
- Freedom of Information (Scotland) Act 2002
- The Human Rights Act 1998 and Equality Legislation
- The Social Care (Self Directed Support) (Scotland) Act 2013
- The Equality Act 2010
- The Mental Health (Scotland) Act 2015

### 3.2 Other related policies and mechanisms:

- Single Shared Assessment Form/Specialist Assessment Forms
- Outcome Focused Support Plan
- Review of Support Plan
- Assessment and Support Management Procedures
- Risk Enablement and Working with Risk Procedures
- Non Residential Charging Policy
- Fair Access to Community Care (Adults) Policy (2023)
- Eligibility Criteria for Adults and Young Carers Support (2021)

## Section 4: Self Directed Support Options

### 4.1 The four options contained within the Self Directed Support legislation are:

<b>Option 1</b>	The making of a direct payment by the Council/HSCP to the service user and/or carer for the purchase and provision of support.
<b>Option 2</b>	The selection of support by the service user and/or carer, the making of arrangements and the provision of it by the HSCP on behalf of that individual and, where it is provided by someone other than HSCP services, the payment by the Council/HSCP of the relevant amount in respect of the cost of that provision.
<b>Option 3</b>	The selection of support for the service user and/or carer by the HSCP, the making of arrangements for the provision of it by the HSCP, and where it is provided by someone else other than the HSCP, the payment by the Council/HSCP of the relevant amount in respect of the cost of that provision.
<b>Option 4</b>	The selection by the service user and/or carer of Option 1, 2 and/or 3 for each type of support, and where it is provided by someone other than the HSCP, the payment by the Council/HSCP of the relevant amount in respect of the cost of the support.

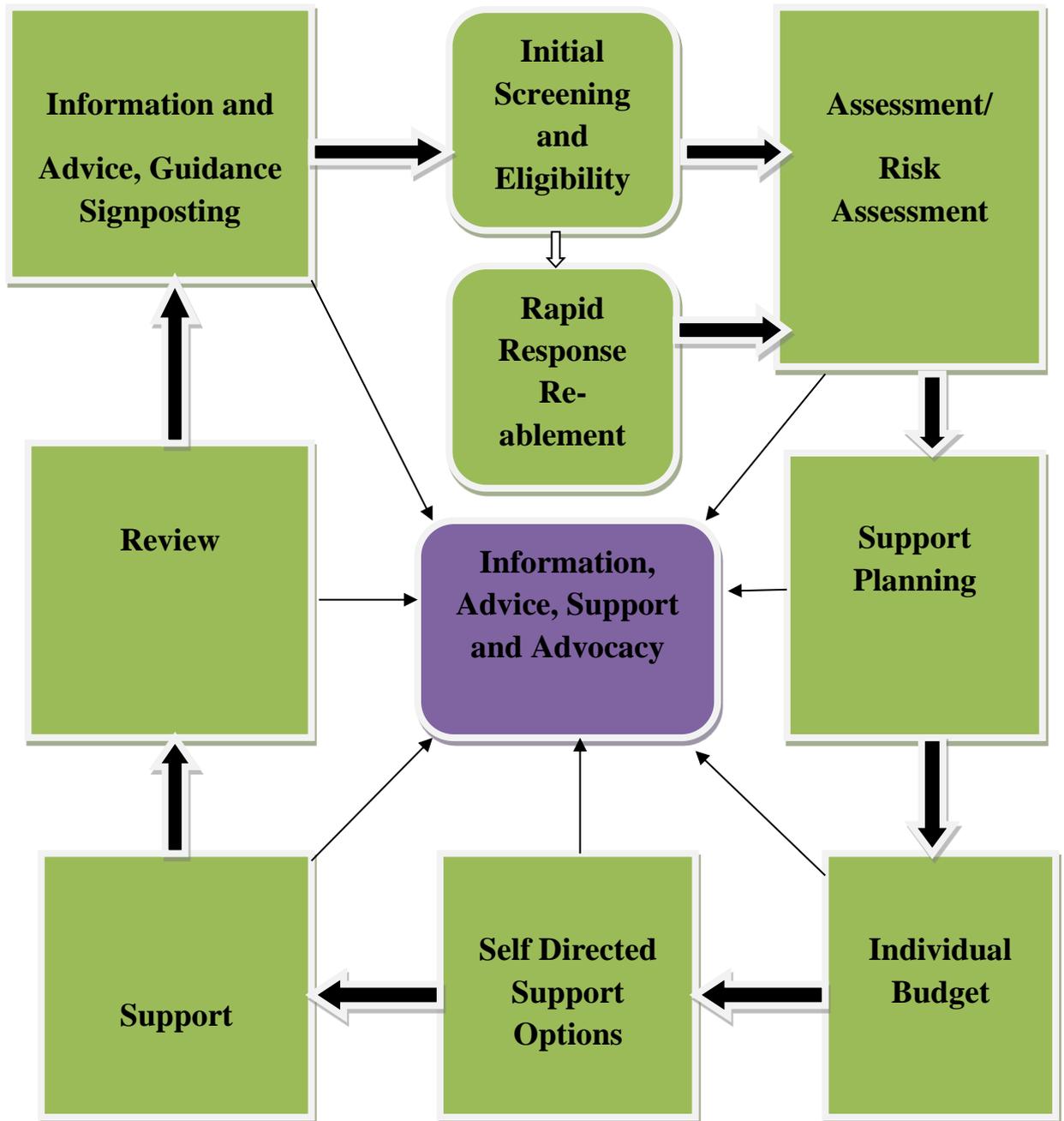
## Section 5: Limits to Choice

- 5.1 There may be instances where the service user or carer will not be able to choose a particular option or type of support.

In line with the Self Directed Support (Direct Payments) (Scotland) Regulations 2014, the HSCP 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:

- The Council/HSCP previously terminated a Direct Payment made to the person;
  - There is evidence that the provision of a Direct Payment is likely to put the safety of the person to whom the support is provided or others at risk.
- 5.2 The Regulations also state that Option 1 (Direct Payments) cannot be offered to persons whose needs call for long-term residential/nursing care.
- 5.3 If a person is ineligible, in terms of the Self Directed Support Act, the HSCP cannot offer the option of a Direct Payment but must give the person the opportunity to choose one of the other options for self directed support.
- 5.4 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.

6.1 The Service User Journey



## 6.2 The Carer Journey



### 6.3 Pathway Stages

**Information, Advice, Guidance, Advocacy and Signposting:** throughout the journey the service user and/or carer will know where to get good information and advice from a range of HSCP and independent sources.

**Initial Screening and Eligibility:** the individual will be screened using the HSCP's eligibility criteria policies. Eligibility criteria recognises 'urgency' and 'risk' as factors in the determination of eligibility for social care support. The criteria ensures that service user and/or carer who require support will not simply be placed in date order queue.

**Rapid Response and Re-ablement:** Where appropriate, the service user and/or carer will be provided with emergency or short-term support, provided or commissioned by the HSCP, until a full assessment of the person's longer-term needs can be undertaken.

**Adult Carer Support Plan/Young Carer Statement:** an Adult Carer Support Plan/Young Carer Statement provides a way of identifying the unpaid carer's needs. It gives the carer an opportunity to express their feelings as a carer and ensures that their needs are taken into account.

**Assessment:** the assessment will be co-produced by the service user, the professional and any other relevant persons that the service user wishes to be involved. The assessment will involve the use of person centred and outcome focused tools and will involve discussions regarding risk enablement and prevention.

**Support Planning:** the support will be planned around the service user's needs, which will contribute towards achieving their outcomes. The HSCP will explore all potential assets available to the service user including personal, community and family assets:

'Personal' assets:	skills, experiences, finances etc.
'Community' assets:	clubs, churches, forums, peer support etc.
'Family' assets:	friends, family, circles of support etc.

The support plan will involve the use of person centred and outcome focused tools and will involve discussion regarding risk enablement and prevention.

**Risk Assessment and Management:** risk assessment and management ensure the delivery of safe, effective and innovative practice. There is a consistent approach to risk assessment, management, enablement and prevention. This approach enables the promotion of positive outcomes for service users. Risks will be monitored, reviewed and recorded throughout the assessment, support planning and review processes.

Assessing any risk will involve working together and balancing both positive and negative risks. Contingency planning is an important factor when support planning. It ensures that all parties are clear about their role in managing any potential risks. Risk cannot be eliminated therefore it is important that the HSCP takes a positive approach to assessing and managing any identified risks and, during this process, values the importance of professional judgement, risk assessment, partnership working, co-production and sharing of knowledge.

**Individual Budget:** the individual budget will be calculated by costing the supports in the service user's and/or carer's support plan that have been agreed as supporting the individual to meet their needs. The use of a 'Schedule of Rates' based on equivalency will be utilised by practitioners when calculating the cost of the support required in order to achieve a consistent and equitable allocation of limited resources. The service user and/or carer will be advised of the total amount of their individual budget and the cost of each component of their support plan.

**Self Directed Support Options:** the service user and/or carer, if eligible, will be offered the choice of using one or more of the self directed support options. Those persons not eligible to receive one or more of the self directed support

options will be offered written explanation for this decision, for example, concerns regarding adult support and protection.

**Support:** The support arranged by the HSCP, third party organisation or the service user and/or carer will relate to meeting the identified needs and contribute to the progression of the personal outcomes identified within the individual's support plan.

**Monitoring and Reviewing:** it is important that we monitor the support plan to ensure that the support is being implemented as agreed and to make any changes where required. The level of monitoring will be determined on an individual basis and informed by the level of need and analysis of risk.

The review will be co-produced by the service user and/or carer, the professional and any other relevant persons. The review will involve the use of person centred and outcome focused tools and will involve discussions regarding risk enablement and prevention. The purpose of the review is to ensure that the outcomes set out in the support plan are being achieved. At any time, the service user and/or carer can request a re-assessment of their support plan particular where there has been notable change in their circumstances. During each review, the four self directed support options will be re-offered.

## **Section 7: Employing Family Members (Option 1)**

7.1 As set out in the Self Directed Support (Direct Payments) (Scotland) Regulations 2014, the service user and/or carer can request to employ a family member in the role of Personal Assistant. The family member can only be employed when the family member, direct payment user and the HSCP agree.

7.2 The employment of a family member using direct payment monies will be considered where:

- The family member, direct payment user and the HSCP 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:

Factors:

- There is limited choice of service providers who could meet the needs of the direct payment user.
- The service 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 HSCP, for that family member to provide the support.
- 7.3 A family member may not provide the support, which relates to the direct payment in the following circumstances:
- The HSCP determines that either the family member or the direct payment user is under undue pressure to agree to the family member providing support or;
  - The family member is the legal guardian, continuing attorney or welfare attorney with the power to make decisions as regards the support to be provided through the direct payment.
  - The HSCP considers that a family arrangement may impact adversely on a carer or young carer.
  - The family member is unable to provide the level of care due to other reasons that are detailed in the assessment.

## **Section 8: Constructing the Individual Budget**

- 8.1 The HSCP is required to calculate the overall cost of the assessed needs and support package in line with the Eligibility Criteria and Fair Access to Community Care Services Policies, for each individual service user/carers, irrespective of their choice of self directed support options.
- 8.2 Once an assessment is complete the practitioner, service user and/or carer, and anyone else that the person wishes to participate in this part of the journey, will identify the needs arising from the assessment. Application of the Eligibility Criteria policy determines which of these needs are eligible for statutory support. The purpose of the statutory support is to deliver improved outcomes (results) for people, where identified risks are reduced to a moderate level. Work will be done to consider what these improved outcomes look like and what services might best deliver them.
- 8.3 The practitioner will work with the service user and/or carer and all relevant others to establish how best to meet these eligible needs and achieve the associated outcomes via a co-produced Support Plan.
- 8.4 The practitioner and the service user/carers, when undertaking support planning, will take into consideration other assets that can be utilised to achieve the agreed outcomes i.e. personal; community; family.
- 8.5 After considering other assets, the practitioner, the service user and/or carer and all relevant others will consider the paid supports required to

meet the person's eligible needs and achieve the associated outcomes using creative and person centred thinking.

- 8.6 Once the support planning process has been concluded the practitioner will detail the costs of each 'paid' support. This will be recorded on the support plan and 'Individual Budget' form.
- 8.7 Legislation requires HSCPs to ensure that resources are made available to meet eligible needs to a standard that will satisfy the HSCP that the individual's needs are being met. A direct payment or personal budget provided to meet eligible needs should be equivalent standard to that which the HSCP would provide.
- 8.8 The allocation of resources is determined to be a "relevant amount", as defined in the Social Care (Self Directed Support) (Scotland) Act 2013 as "the amount that the local authority considers is a reasonable estimate of the cost of securing the provision of support for the supported person". In East Dunbartonshire, the HSCP have adopted an 'equivalency model' to determine this relevant amount for the allocation of resources under self directed support.
- 8.9 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 eligible needs. The equivalency calculation is applied whichever one of the four self directed support options is chosen, meaning that no individuals will be placed at a disadvantage. Following completion of the joint assessment an individual will be made aware of the resources available to them. This will ensure that the individual is clear about resources as they begin the support planning process.
- 8.10 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 agreement cannot be reached, the individual should be made aware of the HSCP's Complaints Policy.
- 8.11 Where supports require the purchase of hourly support from care at home services, support provider organisations, personal assistants or any other support service, the practitioner will refer to the 'Schedule of Rates' to determine the most appropriate 'standard rate' dependent upon the support required to meet the needs of the service user and/or carer.
- 8.12 Where the service user or carer chooses a more expensive support service with hourly rates exceeding the HSCP's standard rates it will be necessary for the service user/carer to make adjustments within their individual budget either to:
  - Reduce the total hours of support purchased; or
  - Make alternative arrangements to meet any resulting unmet need arising from any reduction in support hours purchased

e.g. support from family, 'topping up' support costs from their own financial resources.

- 8.13 The assessment, support plan and individual budget will be authorised by the appropriate officers who hold responsibility for budget management. The 'Schedule of Rates' will be reviewed annually by the Council and HSCP.
- 8.14 The process of 'Constructing the Individual Budget' should be applied at each review of the service user's and/or carer's support plan.
- 8.15 In exceptional circumstances, the standard rate may be insufficient to identify or purchase a suitable service for some people with very specific needs and/or circumstances, for the HSCP to purchase or as the basis for calculating an equivalent personal budget value.
- 8.16 In any such exceptional situation, consideration must be based on the whole circumstances of the service user including:
- His or her assessed needs e.g. level of complexity, unpredictability of behaviour;
  - Reference to the HSCP's eligibility criteria in relation to critical or substantial priority/risk.
  - Other relevant factors evidencing that assessed needs cannot be met by a support provider at the standard hourly rate e.g. difficulty recruiting or purchasing, need for support staff with specific additional skills who would be unavailable at the standard rates.
- 8.17 In the event of any departure from the standard rate being proposed, the Strategic Commissioning Team must be involved to identify a service to a standard that will satisfy the HSCP that the individual's needs are being met, at a rate as close to the standard rate as is available. This service will either be commissioned by the HSCP, or will be used to establish an equivalent amount for the purposes of an individual budget, in line with the Social Care (Self Directed Support) (Scotland) Act 2013.
- 8.18 Any decision to make payments outwith the standard rate must be authorised by the relevant Head of Service, who will also determine:
- The agreed rate;
  - The period during which the agreed rate will apply and be reviewed.
- 8.19 Any services arranged or used as an equivalent rate for self directed support that cost more than the relevant standard rate should be considered temporary. At the time of review, the service user's and/or carer's needs should be reassessed and re-engagement with the Strategic Commissioning Team must take place to identify a service to

a standard that will satisfy the HSCP that the individual's needs are being met, at a rate as close to the standard rate as is available, at that time.

- 8.20 The HSCP Fair Access to Community Care (Adults) Policy provides more detail on how services will be arranged for people to meet their eligible needs.

### **Section 9: Individual Budget Expenditure**

- 9.1 The allocation of an 'Individual Budget' resource has to be used to meet the assessed needs and outcomes that will be detailed in the service user's or carer's support plan. The budget cannot be used in the following ways:
- Unreasonably endanger any person.
  - For services or equipment that would be provided by another service or organisation.
  - To fund support that can be provided by other means i.e. community assets.
  - To pay for the legal costs associated with establishing a Power of Attorney or Guardian.
  - To support an illegal activity.
  - To fund gambling, alcohol or tobacco.
  - To fund rewards or gifts for carers.
  - For long-term residential/nursing care (SDS Option 1).
  - To pay off debts.
  - To pay for anything that other sources of income should normally cover i.e. general household expenditures, food and drink, clothes etc.
  - To pay for the service user's contribution to support services (as per the Council's Non Residential Contribution Policy).
  - To pay for supports or services that do not contribute towards the agreed assessed needs and outcomes that have been identified in the support plan.

### **Section 10: Financial Assessment and Service User Contributions**

- 10.1 Individuals who have been assessed for social care support, irrespective of the self directed support option/s chosen, will be subject to financial assessment as per East Dunbartonshire Council's 'Non-Residential Customer Contribution' Policy. Individuals will be advised, after financial assessment and application of the Policy, if this will result in them having to make a financial contribution towards the cost of the social care support.

## Section 11: Termination of Funding/Financial Monitoring – Option 1

- 11.1 East Dunbartonshire Council/HSCP has the power to terminate direct payments (Option 1) under the Self Directed Support (Direct Payment) (Scotland) Regulations 2014 in the following circumstances:
- Where the individual has become ineligible to receive direct payments;
  - Where the payment has been used for purposes other than to meet the assessed needs and outcomes (i.e. misappropriate of funds);
  - Where it has been used to secure the provision of support by a family member in circumstances where no agreement has been provided by the HSCP.
  - Where an individual is unable to manage funds despite being provided with additional support and advice;
  - Where the Council/HSCP consider on reasonable grounds that the individual has breached the criminal law or a civil law obligation in relation to the support to which the direct payment relates.
- 11.2 When an individual is no longer eligible to receive direct payments but continues to have eligible needs the Council/HSCP will provide the opportunity to choose one of the other options to receive self directed support.
- 11.3 East Dunbartonshire Council/HSCP is accountable for public funds and will monitor direct payments made to service users. The process of monitoring is based on the risk matrix outlined below:

Risk Level	Circumstances for Consideration	Frequency
High	<p>New Service User or Carer;</p> <p>Sudden large increase in payment;</p> <p>Regularly requesting increases in level of funding;</p> <p>Past history of administration difficulty i.e. bankruptcy, court judgements, lack of understanding, difficulties with numeracy and literacy.</p>	<p>Financial Audit: Every three months.</p> <p>Support Review: Three monthly for first six months, thereafter six monthly.</p>
Medium	<p>Previous high risk but no evidence of recent issues.</p>	<p>Financial Audit: Every six months.</p>

		Support Review: Three months after support has commenced, thereafter annually.
Low	Long Term Direct Payment Service User or Carer.  No previous difficulties with financial administration.	Financial Audit: Annually  Support Review: Three months after support has commenced, thereafter annually.
Final	Service User or Carer's Direct Payment has ceased.	Financial Audit: Immediate

11.4 East Dunbartonshire Council/HSCP is under a duty to protect the public funds it administers, and to this end may use the information provided by direct payment users for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

For further information, see the East Dunbartonshire Council NFI website (<http://www.eastdunbarton.gov.uk>).

## **Section 12: Support to Service Users and Carers**

12.1 East Dunbartonshire Council/HSCP contracts with an independent support organisation. This organisation will provide information, advice, support and assistance associated with all the self directed support options including (but not limited to):

- Information and advice about the use of self directed support options;
- Assistance with all aspects of employing staff, including job descriptions, advertising, recruitment, training, health and safety advice, income tax, national insurance and pension responsibilities including PVG checks etc.;
- Support with making financial audit returns to the Council Finance Department.

12.2 Support and information is also available from a number of national organisations and there are Scottish Government produced guides available via the Self Directed Support Scotland website: <https://www.sdsscotland.org.uk/>

12.3 Service users and carers may also choose to independently seek support from other organisations, in particular, where they have specialised needs or require an advocate. Advice will be given to individuals about alternative sources of information, guidance or advocacy services if required. Service users and carers may find it helpful to have access to advocacy support, which can help to:

- Promote respect for the rights, freedom and dignity of people, both individually and collectively;
- Ensure people receive the care or services to which they are entitled, and which they wish to receive;
- Enhance people's autonomy;
- Assist people to live as independently as possible and in the least restrictive environment; and
- Protect people from harm and exploitation.

### **Section 13: Equality and Diversity**

13.1 East Dunbartonshire HSCP's Equality and Diversity Statement confirms its commitment to the general principles of fairness, equality and human rights. Implementation of the SDS Policy has previously been assessed using an Equalities Impact Assessment. This assessment ensured that the Policy contributes to equality and diversity by giving people greater choice and control over the social care support they receive.

### **Section 14: Complaints**

- 14.1 Service users and carers who experience difficulties with the service that the HSCP is providing or commissioning, should in the first instance, try to resolve matters with their social work practitioner and senior managers within the service. Local support organisations may have a role to play in supporting service users and carers in clarifying the position and offering advocacy where this is possible.
- 14.2 In the event of informal discussions not resolving an issue, service users and carers can make use of the HSCP's complaints policy and procedure.
- 14.3 Service users and carers may make complaints about any action, decision or apparent failing of the Council and/or HSCP and they will have recourse through the Scottish Public Services Ombudsman once all other avenues have been exhausted. Service users and carers will not be able to use this route for complaints about services which they have secured from independent providers (including people they employ directly) using Self Directed Support Option 1 (Direct Payments). However, they should address any complaints that they may have about the services they purchase to the service providers themselves and take up complaints about their personal assistants with these employees.
- 14.4 Alternatively, a complaint can be made to the Care Inspectorate about any registered service.

## **Section 15: Related Policies**

15.1 This policy is inter-dependent with the following local policies, strategies, procedures and guidelines:

- The Statutory Guidance accompanying the Social Care (Self Directed Support) (Scotland) Act 2014
- Fair Access to Community Care Services
- Eligibility Criteria Policy for Social Work Services
- Carers' Eligibility Criteria, Strategy and Short Breaks Statement
- Assessment and Support Management Procedures
- Self Directed Support Strategy
- Self Directed Support Operational Procedures
- Customer Contribution Policy for Non-Residential Services
- Adult Support and Protection Operational Procedures
- Child Protection Operational Procedures

## **Section 16: Further Information**

16.1 The Self Directed Support Policy is available on the East Dunbartonshire Health and Social Care Partnership website pages at [www.eastdunbarton.gov.uk](http://www.eastdunbarton.gov.uk).

16.2 If you would like additional information or clarification on the content of this Policy please contact:

Self Directed Support Lead Officer  
East Dunbartonshire Health and Social Care Partnership  
Kirkintilloch Health and Care Centre  
10 Saramago Street  
Kirkintilloch  
G66 3BF

Tel: 0141 777 3000

Email: [customerservices@eastdunbarton.gov.uk](mailto:customerservices@eastdunbarton.gov.uk)

16.3 Other Formats:

If you would like additional information or clarification on the content of this Implementation Plan please contact:

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