

**SOCIAL WORK SERVICES**

**ASSISTANCE WITH TRANSPORT**

**Draft PROCEDURES  
AND  
OPERATIONAL GUIDANCE**

**August 2019**

## **Assistance with Transport from Social Work Services**

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## **Assistance with Transport from Social Work Services**

### **1. Introduction**

- 1.1 The HSCP Annual Business Development Plan (Transformational Change Plan) 2019/20 identifies the following priority: review of transport policy (the “Review”).
- 1.2 In undertaking this Review, East Dunbartonshire HSCP Social Work Services (the “Service”) aimed to ensure that:
  - its duties were being fulfilled appropriately; and
  - there was clarity across the Service about the circumstances in which it is appropriate to consider providing assistance with transport.
- 1.3 In reviewing this area of service, the legal, policy and financial framework within which the Service is planned, managed and delivered has been taken into account.
- 1.4 The Service operates to a defined allocated budget. The Service is accountable for use of this budget. Ensuring that duties are fulfilled includes spending the money the Service has in the most effective and efficient ways.
- 1.5 The Service operates within a defined legal and policy framework. As well as defining its duties towards those who reside in the East Dunbartonshire Council (the “Council”) area, the legal framework makes provision for a range of powers which may or may not be exercised by the Service. The ways in which the Service exercises those powers, or does not exercise them, are influenced by the policy framework.
- 1.6 For the purposes of this procedure and guidance document (the “Procedures and Guidance”) the terms ‘Service User’ and ‘Carer’ have the following meanings:

Service User: a child, young person or adult with whom the Service is working and in respect of whom an assessment of need has been undertaken by the Service and from which there is a care plan in place

Carer: an adult whose relationship with the Service is primarily as a result of the responsibilities it has in respect of a Service User. This might include, for example, a parent or other person with parental responsibilities or rights; a person with a caring role (who might also be a parent, in the case of an adult Service User); a guardian or a person having power of attorney.

1.7 The Service's policy on assistance with transport (the "Policy") makes clear when such assistance **may** be provided. The Policy outlines the following:

- (i) the Service has no duties or powers to provide assistance with transport for any individuals, or groups of individuals, who are not otherwise involved with the Service;
- (ii) In relation to Service Users, and those with responsibilities towards Service Users<sup>1</sup>, the Service will only **consider** providing assistance with transport where:
  - a) there is a duty to provide this; and/or
  - b) such assistance is assessed as essential to enable achievement of the assessed care plan.
- (iii) In relation to Service Users, and those with responsibilities towards Service Users, any consideration of assistance with transport in line with (a) and/or (b) above will take into account the availability of other sources of assistance with transport. Where other assistance with transport is available, and depending on the source and nature of that assistance, the Service will decide whether to:
  - a) provide some assistance with transport;
  - b) provide no assistance with transport; or
  - c) provide some assistance with transport and claim/reclaim the cost or part of the cost of this assistance (from the person who received the assistance or those with responsibilities towards Service Users, where appropriate).

1.8 In relation to criminal justice services there is national guidance in relation to assistance with bus fares. This is the only assistance with transport that can be provided under the duties and powers that relate to criminal justice services. The Procedures and Guidance does not therefore need to cover criminal justice services.

1.9 The Procedures and Guidance has been developed to support the implementation of the Policy. It aims to do this by setting out the principles underlying the Service's approach, the relevant range of duties and powers, considerations to be made, and the procedure for assessing and providing assistance with transport.

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<sup>1</sup> This might include, for example, a parent, Carer or guardian.

## **2. Principles**

2.1 The principles which underpin the Procedures and Guidance reflect the overall objectives of the Service in terms of:

- supporting children, young people and adults who are vulnerable or in need to remain at home or in their own communities;
- assisting children, young people and adults who are vulnerable or in need to achieve their potential and lead independent lives;
- ensuring that those who use the Service receive a high standard of care;
- achieving better involvement and support for Carers and other stakeholders; and
- promoting the welfare of individuals who are vulnerable or in need.

2.2 In addition, further principles which underpin the Service's approach to assistance with transport are as follows:

- Service Users are encouraged and supported to –
  - reach their full potential, in all aspects of their lives;
  - be safe, healthy, respected, responsible and included members of the community; and
  - be as independent as their individual circumstances allow.
- Carers are encouraged and supported to fulfil their Carer role and to work alongside the Service to ensure those they care for have the maximum opportunities to -
  - reach their full potential, in all aspects of their lives;
  - be safe, healthy, respected, responsible and included members of the community; and
  - be as independent as their individual circumstances allow.
- Carers are encouraged and supported to have their own needs assessed through a Carer's assessment, where this is appropriate. Young Carers are entitled to have a personal statement which may identify assessed needs.

## **3. Assistance with Transport - Duties and Powers**

3.1 As noted earlier, the Service operates within a defined legal framework. This framework includes a range of legislation from which it derives duties and powers. In relation to the duties and powers which the Service has regarding assistance with transport, the main source of these duties and powers are the:

- Social Work (Scotland) Act 1968 (as amended)
  - Chronically Sick and Disabled Persons Act 1970 (as amended)
  - Children (Scotland) Act 1995 (as amended)
  - Mental Health (Care and Treatment) (Scotland) Act 2003.
  - Children and Young People (Scotland) Act 2014
- 3.2 In general terms, where there is a duty to provide assistance with transport (e.g. with travelling to allow participation in a service being provided in respect of the Service User need), there is also a power to seek repayment, of some or all, of the costs for this assistance.
- 3.3 Some detail on the duties and powers which the Service has regarding assistance with transport is provided in **Appendix 1**.

#### **4. Considerations to be Made when Assessing Possible Assistance with Transport**

- 4.1 In all cases where the Service proceeds to make an assessment on the possible provision of assistance with transport the following considerations will apply:-
- 4.1.2 Any assessment for assistance with transport will be done separately from the assessment of need.
- 4.1.3 Any assessment for assistance with transport will identify whether the Service has a duty to provide such assistance. (See Section 3 above and **Appendix 1**).
- 4.1.4 Any assistance with transport which is provided will be done in the most cost effective way.
- 4.1.5 The Service will be able to demonstrate that any assessment for assistance with transport or actual assistance provided is done in accordance with the Policy and the Procedures and Guidance.
- 4.1.6 The Service will not provide assistance with transport unless it is assessed that such assistance is essential to achievement of the care plan compiled by the Service. The exception to this is where the Service has a duty to provide assistance with transport, i.e. with travelling, and a care plan is not yet in place. This would be an unusual circumstance but may on occasion occur. Where this happens, the decision will be an interim one and as soon as practicable, but no later than within fifteen working days of the assistance being provided, a care plan will be drawn up. The decision about assistance with transport will then be the subject of discussion at the Service User review meeting – as detailed in section 5 below).
- 4.1.7 The Service will take account of any other income or resources (in kind or in cash) available to the Service User and/or their Carer

which could reasonably be expected by the Service to be utilised for the purpose of aiding mobility. The expectation is that arrangements would be made (by the Service User and/or their Carer) to utilise these in respect of the transport needs.

- 4.1.8 Where the care plan is supported by benefits such as PIP or other sources of funding, this will be taken into account in coming to a decision about assistance with transport, including in terms of the possible impact on the Independent Living Fund (ILF) of any decision to provide assistance with transport. In any case where the ILF is accessed by a Service User, the assistance with transport assessment should be discussed with the team manager / manager.
- 4.1.9 Where assistance with transport is provided by the Service (in kind or in cash), consideration will be given to the option of the Service claiming or reclaiming the cost or part of the cost of this assistance, from the person who received the assistance, or from their Carer if appropriate.
- 4.1.10 In cases where assistance with transport is assessed as essential to enable achievement of the assessed care plan of a Service User, but where the assistance needs to be directed to the Carer, all of the above considerations apply. (For example, where the care plan for a child who is looked after away from home is to return that child home, and that as part of the work to achieve this there is a series of planned contact between the child and parent, the Service may consider providing assistance with transport to the parent to support and enable the achievement of the child's care plan).

## **5. Procedure for Assessing Possible Assistance with Transport**

5.1 The question of assistance with transport may arise from a range of sources - for example, from the worker who has carried out the assessment of need, from a Service User or from an individual with responsibilities towards a Service User. Individuals with responsibilities towards a Service User include, for example, a:

- parent or other person with parental responsibilities or rights;
- Carer;
- guardian; or
- person having power of attorney.

5.2 Where the enquiry about assistance or request for assistance with transport is made by a Service User or an individual with responsibilities towards a Service User, they must be advised that:

- there is a Policy;
- assistance is subject to assessment;

- any assessment for assistance with transport is done separately from an assessment of need/assessment for a social work service;
  - where it is assessed that assistance with transport is required, this does not necessarily mean that the Service will provide it; and
  - where it is assessed that assistance with transport is required, and the Service decides it is appropriate to provide it (in kind or in cash), it may be that the Service will seek reimbursement of the cost or part of the cost of the assistance.
- 5.3 When an assessment for assistance with transport is to be undertaken, the Service User and/or other person with responsibilities towards the Service User should be advised of the considerations to be made – as noted in section 4 above.
- 5.4 In addition, the Service User and/or other person with responsibilities towards the Service User should be advised that any decision about whether to provide assistance with transport will be made through the Service's care plan review mechanisms. In the case of community care Service Users, this would be at a community care review meeting; in the case of children and families Service Users this would be at a looked after child review meeting, an integrated assessment review meeting, a team around the child meeting or a pathways plan review meeting.
- 5.5 When assessing for assistance with transport, the relevant form should be completed – see **Appendix 2**. Once completed it should be signed by the assessing worker, and where appropriate by the Service User (or the individual with responsibilities towards them) and the relevant team manager at section 2 of the form. This assessment and recommendation will be discussed with the service manager at the resource allocation group. The recommendation will also note whether reimbursement is to be made with regards to any assistance being proposed / given and the arrangements for this. The details considered within this assistance with transport assessment will be considered at the Service User review meeting as a specific agenda item. The decisions made about this at the review meeting will be reflected in the care plan, in the minute of the review meeting and in the Service User case record.
- 5.6 Where assistance with transport has been agreed by the Service, the cost of this should be clearly detailed within the assessment form and be budgeted for against the appropriate cost code.
- 5.7 Where there is a decision to assist with transport, this decision will be subject to regular review, as follows:
- at each subsequent review of the Service User care plan;

- at any time where there is information to suggest a significant change of circumstances in the case;
- at any time the Service considers it appropriate; or
- notwithstanding any of the above, at a minimum on an annual basis.

5.8 In exceptional circumstances, which would most likely be linked to an unexpected significant change in the circumstances of a Service User or individual with responsibilities towards the Service User, a decision may be made about assistance with transport outwith these review mechanisms. In such cases, the actions noted at 5.2 - 5.5 above will still be undertaken and an assessment form used to record the assessment (as above). The assessment should be signed by the team manager once signed by the assessing worker and where appropriate, the Service User (or the individual with responsibilities towards them), at section 2. The team manager's recommendations about any assistance with transport should also be noted and this will include whether reimbursement is to be made with regard to any assistance with transport. The team manager should make arrangements to discuss the assessment with the relevant manager (e.g. fieldwork manager). This service manager is responsible for ensuring the assessment and recommendations are discussed at the resource allocation group and a decision is made about assistance with transport; this will include whether reimbursement is to be made.

5.9 It might be helpful to note here some circumstances in which assistance with transport may be assessed as essential – but **note too that this does not necessarily mean that the Service will not seek reimbursement of the costs/part of the costs of any assistance provided.** Bearing in mind the relevance of assistance with transport to the achievement of the care plan, examples of where assistance with transport may be assessed as essential are where:

- the Service User, or their parent/Carer, has no other access to assistance with transport, e.g. there is no-one who is willing and able to assist with transport and all other options, including the use of public transport, have been taken into account and ruled out for specific reasons. (These details will be evidenced within the assessment form and the evidential information will also be recorded in the Service User case record);
- due to specific health and safety issues related to the Service User there are no appropriate transport alternatives. These details will be evidenced within the assessment form and the evidential information will also be recorded in the Service User case record;

- a Carer is caring for more than one dependent and because of the competing caring demands they are not in a position to provide assistance with transport; or
- there are issues of risk and/or financial hardship exists and the giving of assistance with transport would avoid the Council being caused greater expense through the giving of assistance in another form, or where failure to provide transport would cause greater expense to the Council on a future occasion.

5.10 Where there is disagreement by a Service User, or an individual with responsibilities towards the Service User, about the decision that has been made with regards assistance with transport, and where they wish to appeal this decision, this may be done by contacting the relevant manager in writing. This will either be the community care manager or the children and families service manager. This written appeal must be made within ten working days of the Service making the decision (i.e. ten working days from the review meeting where the decision was made or in exceptional circumstances, from the date the manager e.g. fieldwork manager, made the decision). The community care manager/children and families manager will consider any written appeal received and provide their written decision on this, and the reasons for it, within ten working days of receipt of the appeal. A copy of the decision will be provided to the relevant team manager for noting in the case records and inclusion within the case file. The decision of the community care manager/children and families manager is final.

5.11 However, as is the case with other areas of service, any Service User, or an individual with responsibilities towards that Service User, may use the complaints procedure if they wish to do so. As is usual practice, Service Users, and individuals with responsibilities towards Service Users, should be advised of the complaints procedure.

## **6. Procedure for Providing Assistance with Transport**

6.1 Where it has been assessed that assistance with transport is essential, and that it is appropriate for this assistance to come from the Service, the aim is to provide this (either directly or through another provider) using the most cost-effective means available.

6.2 There may be instances where the most cost-effective option is not the preferred option (e.g. due to exceptional health and safety issues). Any use of a more expensive option must be approved by the relevant fieldwork manager (in the case of children and family services, this may be the fieldwork manager or resources manager) and the reasons for use of

such an option, if made, recorded in the assessment form and the Service User case records.

- 6.3 Any assistance with transport for an individual in receipt of a long-term, residential or nursing care service commissioned by the Service will normally be the responsibility of the provider.
- 6.4 In the case of adult community care Service Users, transport to and from any college, training or employment placement after the Service User leaves school, is the responsibility of the Service User. It is important that Service Users, and other individuals with responsibilities towards the Service User, recognise this and take it into account when they are considering initiating a service/agreeing a care plan.
- 6.5 When assistance with transport has been agreed by the Service and where this relates to attendance at a Service provided day care, lunch club or other such service, the Service may seek some reimbursement towards the costs of the transport.
- 6.6 There are instances where Service Users (e.g. those using a community care day care service) are offered opportunities to be involved in recreational outings. Where this happens and the Service User makes use of the transport organised by the Service, reimbursement of the costs for this usage may be sought.
- 6.7 In exceptional circumstances, and if a pool car is not available, approval must be sought from a manager for a worker to transport a Service User.

## Assistance with Transport - Duties and Powers

Section 3 of the Procedures and Guidance refers to the legal framework from which the Service's duties and powers derive. The information noted here provides some detail on the duties and powers which the Service has regarding assistance with transport.

### A1. The Social Work (Scotland) Act 1968 (as amended)

- A1.1 Section 12 of this Act relates to "general social welfare services of local authorities". In overall terms, section 12 imposes a duty on local authorities "to promote social welfare by making available advice, guidance and assistance" and to provide or secure the provision of such facilities as they "consider suitable and adequate". Further, that where assistance is given, this may be "in kind or in cash". Section 12 also gives a power to local authorities when giving this assistance, to make the assistance subject to conditions of repayment.
- A1.2 The detail of the remainder of section 12 makes clear to whom and under what circumstances assistance may be given. Within this, under section 12(3), the local authority "before giving assistance to, or in respect of, a person in cash .....shall have regard to his eligibility for receiving assistance from any other statutory body and, if he is so eligible, to the availability to him of that assistance in his time of need".
- A1.3 Section 12(4) makes provision for the local authority, in providing assistance in cash or kind, to provide this "subject to such conditions as to the repayment of the assistance, or of its value, whether in whole or in part, as the local authority may consider reasonable having regard to the means of the person receiving the assistance and to the eligibility of the person for assistance from any other statutory body".
- A1.4 Section 29 of the Social Work (Scotland) Act 1968 relates to the "power of local authority to defray expenses of parent, etc., visiting persons or attending funerals". Section 29 states:
- (1) A local authority may make payments to any parent, relative or other person connected with -
    - (a) a person, other than a child, in the care of the authority or receiving assistance from the authority; or
    - (b) a child who is being looked after by the authority,

in respect of travelling, subsistence or other expenses incurred by the parent, relative or other person in visiting the person or child, if it appears to the authority that the parent, relative or other person would not otherwise be able to visit him without undue hardship and that the circumstances warrant the making of the payments.

## **A2. The Chronically Sick and Disabled Persons Act 1970 (as amended)**

A2.1 Section 2 of this Act relates to the “provision of welfare services”. Section 2 states in part that:

- (1) Where a local authority having functions under section 29 of the National Assistance Act 1948<sup>2</sup> are satisfied in the case of any person to whom that section applies who is ordinarily resident in their area that it is necessary in order to meet the needs of that person for that authority to make arrangements for all or any of the following matters, namely –
  - (a) the provision of practical assistance for that person in his home;
  - (b) the provision for that person of, or assistance to that person in obtaining, wireless, television, library or similar recreational facilities;
  - (c) the provision for that person of lectures, games, outings or other recreational facilities outside his home or assistance to that person in taking advantage of educational facilities available to him;
  - (d) the provision for that person of facilities for, or assistance in, travelling to and from his home for the purpose of participating in any services provided under arrangements made by the authority under the said section 29 or, with the approval of the authority, in any services provided otherwise than as aforesaid which are similar to services which could be provided under such arrangements.

## **A3. The Children (Scotland) Act 1995 (as amended)**

A3.1 Section 22 of the Children (Scotland) Act 1995 relates to the “promotion of welfare of children in need” and Section 29 to “after-care” (in respect of advice and assistance for young persons formerly looked after by local authorities).

A3.2 Section 22 states:

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<sup>2</sup> This refers to welfare arrangements for adults.

- (1) A local authority shall –
  - (a) safeguard and promote the welfare of children in their area who are in need; and
  - (b) so far as is consistent with that duty, promote the upbringing of such children by their families,  
  
by providing a range and level of services appropriate to the children's needs.
- (2) In providing services under subsection (1) above, a local authority shall have regard so far as practicable to each child's religious persuasion, racial origin and cultural and linguistic background.
- (3) Without prejudice to the generality of subsection (1) above –
  - (a) a service may be provided under that subsection -
    - (i) for a particular child;
    - (ii) if provided with a view to safeguarding or promoting his welfare, for his family; or
    - (iii) if provided with such a view, for any other member of his family; and
  - (b) the services mentioned in that subsection may include giving assistance in kind or, in exceptional circumstances, in cash.
- (4) Assistance such as is mentioned in subsection (3)(b) above may be given unconditionally or subject to conditions as to the repayment, in whole or in part, of it or of its value; but before giving it, or imposing such conditions, the local authority shall have regard to the means of the child concerned and of his parents and no condition shall require repayment by a person at any time when in receipt of –
  - (za) universal credit under Part 1 of the Welfare Reform Act 2012;
  - (a) income support or working families' tax credit payable under the Social Security Contributions and Benefits Act 1992;
  - (aa) any element of child tax credit other than the family element or working tax credit;
  - (b) an income-based jobseeker's allowance payable under the Jobseekers Act 1995; or
  - (c) an income-related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance).

A3.3 Section 29 states in part that:

- (1) A local authority shall, unless they are satisfied that his welfare does not require it, advise, guide and assist any person in their area who is at least sixteen but not yet nineteen years of age who either –
- (a) was (on his sixteenth birthday or at any subsequent time) but is no longer looked after by a local authority; or
  - (b) is of such other description of person formerly but no longer looked after by a local authority as the Scottish Ministers may specify by order.
- (1A) An order made under subsection (1)(b) above is subject to the affirmative procedure.
- (2) If a person within the area of a local authority is at least nineteen, but is less than twenty-one, years of age and is otherwise a person such as is described in subsection (1) above, he may by application to the authority request that they provide him with advice, guidance and assistance.
- (2A) Subsections (1) and (2) above do not apply to a person during any period when the person is being provided with continuing care under section 26A of this Act.
- (3) Subject to section 73(2) of the Regulation of Care (Scotland) Act 2001 (asp 8), assistance] given under subsection (1) above or (5A) or (5B) below may include assistance in kind or in cash.
- (4) Where a person –
- (a) who is at least sixteen years of age ceases to be looked after by a local authority; or
  - (b) described in subsection (1) above is being provided with advice, guidance or assistance by a local authority,
- they shall, if he proposes to reside in the area of another local authority, inform that other local authority accordingly provided that he consents to their doing so.

#### **A4. The Mental Health (Care and Treatment) (Scotland) Act 2003**

A4.1 Section 27 of this Act relates to “assistance with travel”. Section 27 states:

- A local authority –
- (a) shall -

- (i) provide, for persons who are not in hospital and who have or have had a mental disorder, such facilities for, or assistance in, travelling as the authority may consider necessary to enable those persons to attend or participate in any of the services mentioned in sections 25 and 26 of this Act; or
  - (ii) secure the provision of such facilities or assistance for such persons; and
- (b) may -
  - (i) provide such facilities or assistance for persons who are in hospital and who have or have had a mental disorder; or
  - (ii) secure the provision of such facilities or assistance for such persons.

A4.2 Section 28 of the Mental Health (Care and Treatment) Act 2003 makes amendments to earlier legislation, including the Social Work (Scotland) Act 1968, through which powers are given to local authorities in relation to charges that may be made for certain services. That is, a power to recover “such charge (if any)” for services provided under Sections 25, 26 and 27 of the Mental Health (Care and Treatment) Act 2003.

A4.3 Section 27 has already been noted above. Sections 25 and 26 both refer to the provision of services; Section 25 to “care and support services etc” and Section 26 to “services designed to promote well-being and social development”.

**Assistance with Transport Assessment Form**