POLICY NOTE

THE SELF-DIRECTED SUPPORT (DIRECT PAYMENTS) (SCOTLAND) AMENDMENT REGULATIONS 2015

SSI 2015/319

1. The above instrument was made in exercise of the powers conferred by section 15 and 22 (1) of the Social Care (Self-directed Support) (Scotland) Act 2013. It is subject to the negative procedure.

Policy Objectives

2. These Regulations amend the Self-directed Support (Direct Payments) (Scotland) Regulations 2014 ("the 2014 Regulations") which make further provision about direct payments made under the Social Care (Self-directed Support) (Scotland) Act 2013.

3. Regulation 10 of the 2014 Regulations currently prohibits direct payments for persons to whom a local authority has decided to provide or arrange for the provision of residential accommodation or residential accommodation with nursing for a period in excess of 4 consecutive weeks in any period of 12 months. These amendments are now made to allow a direct payment for residential accommodation to be offered by specifically East Renfrewshire Council or Moray Council. The amendments are designed to allow a pilot project to be carried out in order to assess the workability of direct payments in the context of residential care. The pilot councils will be permitted, but not required, to offer direct payments for residential accommodation. All other people out with the aforementioned local authority areas will continue to be ineligible to receive direct payments in residential accommodation; or residential accommodation with nursing for a period in excess of 4 consecutive weeks in any period of 12 months. The initial test site work in East Renfrewshire and Moray started in January 2015 with learning and recommendations expected around January 2017. This work will help to inform national guidance on all of the SDS options in a residential context. It will also help inform Ministerial decisions on whether to allow direct payments to be used to purchase residential care, residential care services and as a mechanism to support residential provision across Scotland. The projects will be overseen by a national advisory group to ensure the learning has wider application and that Scottish Government and its partners better understand the impacts of the SDS options on those involved including care users and carers, local authorities and providers.

Consultation

4. On the proposals for legislation on Self-directed Support a number of questions were explored in relation to the application of SDS duties. One important area of discussion was the application of the SDS duties in relation to residential care. The bar on the provision of direct payments for residential care was retained with a view to running test sites in a small number of local authority areas to explore the impact of direct payments in a residential care context and to inform a final decision whether to remove the bar.

Impact Assessments

5. This instrument has no effect on any equality issues. An Equality Impact Assessment was carried out for the Social Care (Self-directed Support) (Scotland) Act 2013 and is available on Scottish Government's website at:
http://www.gov.scot/Publications/2012/03/9876/1

Financial Effects

6. A BRIA was carried out for the 2013 Act and is available on the Scottish Government website at:
http://www.gov.scot/Publications/2012/03/5525/0

Scottish Government
Directorate for Population Health Improvement
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