



# Social Care (Self-directed Support) (Scotland) Act 2013

## 2013 asp 1

### *Options for self-directed support*

#### **8 Choice of options: children and family members**

- (1) This section applies where a local authority is to provide services under section 22 of the 1995 Act (“support”) to a child or a member of a child’s family.
- (2) The authority must give the supported person the opportunity to choose one of the options for self-directed support unless the authority considers that the supported person is ineligible to receive direct payments.
- (3) If the authority considers that the supported person is ineligible to receive direct payments the authority must—
  - (a) notify the supported person of—
    - (i) the reason why the authority considers that to be the case, and
    - (ii) the circumstances in which the authority must under section 12 review the question of whether the supported person is ineligible to receive direct payments, and
  - (b) give the supported person the opportunity to choose one of the options for self-directed support other than—
    - (i) Option 1, and
    - (ii) so far as relating to that option, Option 4.
- (4) In carrying out the duties imposed by subsections (2) and (3)(b), the authority must inform the supported person of—
  - (a) the amount that is the relevant amount for each of the options for self-directed support from which the authority is giving the person the opportunity to choose, and
  - (b) the period to which the amount relates.
- (5) Subsection (6) applies where the supported person is an appropriate person in relation to the child.

- (6) Before making a choice in pursuance of subsection (2) or (3)(b), the supported person must, so far as practicable and taking account of the maturity of the child—
- (a) give the child an opportunity to indicate whether the child wishes to express the child's views,
  - (b) if the child wishes to do so, give the child an opportunity to express them, and
  - (c) have regard to any views expressed by the child.
- (7) If the supported person does not make a choice in pursuance of subsection (2) or (3)(b) the supported person is deemed to have chosen Option 3.
- (8) The authority must give the notification required by subsection (3)(a) in writing and, if necessary, in such other form as is appropriate to the needs of the person to whom it is given.
- (9) In this section—
- “the 1989 Act” means the Children Act 1989 (c.41),
- “the 1995 Order” means the Children (Northern Ireland) Order 1995 (S.I. 1995/755),
- “appropriate person”, in relation to a child, means—
- (a) a parent or guardian having parental responsibilities or parental rights in relation to the child under Part 1 of the 1995 Act,
  - (b) a person in whom parental responsibilities or parental rights are vested by virtue of section 11(2)(b) of the 1995 Act,
  - (c) a person having parental responsibilities or parental rights by virtue of section 11(12) of the 1995 Act,
  - (d) a parent having parental responsibility for the child under Part 1 of the 1989 Act,
  - (e) a person having parental responsibility for the child by virtue of—
    - (i) section 12(2) of the 1989 Act,
    - (ii) section 14C of the 1989 Act, or
    - (iii) section 25(3) of the Adoption and Children Act 2002 (c.38),
  - (f) a parent having parental responsibility for the child under Part 2 of the 1995 Order,
  - (g) a person having parental responsibility for the child under Article 12(2) of the 1995 Order,
  - (h) a person in whom parental responsibilities or parental rights are vested by virtue of a permanence order (as defined in section 80(2) of the Adoption and Children (Scotland) Act 2007 (asp 4)),
- “supported person” means—
- (a) where support is to be provided (wholly or partly) to the child or a member of the child's family who is also a child—
    - (i) if the child to whom support is to be provided is under 16 years of age, an appropriate person,
    - (ii) if the child to whom support is to be provided is 16 years of age or over, the child,
  - (b) where support is to be provided (wholly or partly) to a member of the child's family who is not a child, that person.