



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

2013 asp 1

Options for self-directed support

6 Choice of options under section 5: assistance

- (1) This section applies where—
 - (a) a local authority decides under section 12A(1)(b) of the 1968 Act that the needs of an adult (the “supported person”) call for the provision of community care services,
 - (b) it appears to the authority that the supported person falls within subsection (2), and
 - (c) the conditions in subsection (3) are satisfied.
- (2) A supported person falls within this subsection if—
 - (a) because of mental disorder, the supported person would benefit from receiving assistance from another person in relation to making decisions about relevant matters,
 - (b) because of difficulties in communicating due to physical disability, the supported person would benefit from receiving assistance from another person in relation to communicating decisions about relevant matters.
- (3) The conditions are—
 - (a) there is no guardian, continuing attorney or welfare attorney with powers in relation to the relevant matters, and
 - (b) an intervention order has not been granted in relation to the relevant matters.
- (4) The authority must take reasonable steps to enable the supported person to make a choice in pursuance of section 5(2) or (3)(b).
- (5) The authority must take reasonable steps—
 - (a) to identify persons who are able to assist the supported person, and
 - (b) if the supported person agrees, to involve them in assisting the supported person in making decisions about relevant matters or, as the case may be, communicating decisions about relevant matters.

(6) In this section—

“the 2000 Act” means the Adults with Incapacity (Scotland) Act 2000 (asp 4),

“continuing attorney”—

- (a) means a continuing attorney within the meaning of section 15 of the 2000 Act, and
- (b) includes a person granted, under a contract, grant or appointment governed by the law of any country, powers (however expressed) relating to the granter’s property or financial affairs and having continuing effect despite the granter’s incapacity,

“guardian”—

- (a) means a guardian appointed under the 2000 Act, and
- (b) includes a guardian (however called) appointed under the law of any country to, or entitled under the law of any country to act for, an adult during the adult’s incapacity, if the guardianship is recognised under the law of Scotland,

“intervention order” is to be construed in accordance with section 53 of the 2000 Act,

“mental disorder” has the meaning given by section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13),

“relevant matters” means—

- (a) the choice in pursuance of section 5(2) or (3)(b) of one of the options for self-directed support,
- (b) anything relating to the planning of the care or support of the supported person,
- (c) anything relating to support provided (or to be provided) to the supported person in pursuance of an option for self-directed support,

“welfare attorney”—

- (a) means a welfare attorney within the meaning of section 16 of the 2000 Act, and
- (b) includes a person granted, under a contract, grant or appointment governed by the law of any country, powers (however expressed) relating to the granter’s personal welfare and having effect during the granter’s incapacity.