

# Guidance on Self-Directed Support (SDS) during the Pandemic

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Version	Date	Summary of Changes
V1	May 2020	
V2	July 2020	Updated to take into account ongoing changes of the pandemic
V3	February 2022	<p>Updated to include the Self-Directed Support Framework of Standards and the ongoing changes of the pandemic.</p> <ul style="list-style-type: none"> <li>• Employment of family and friends as Personal Assistants</li> <li>• Guidance name change</li> <li>• Guidance covers all SDS Options</li> <li>• Inclusion of the SDS Framework of Standards</li> <li>• Maximising flexibility of budgets</li> <li>• Enabling worker autonomy</li> <li>• People at high risk</li> <li>• Social Care Staff Support Fund</li> <li>• Death in Service</li> <li>• Personal Assistants Employers Handbook</li> <li>• Self-Isolation</li> </ul>

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# Guidance on Self-Directed Support (SDS) During the Pandemic

## Context and Background

This guidance was originally produced in May 2020, during the first peak of the pandemic. While flexibility and choice should always be promoted as an integral part of the SDS approach, this guidance focuses on the changing circumstances of the pandemic, and how SDS can be used flexibly in response to the pandemic circumstances. It includes specific information about how supported people can act as employers of Personal Assistants (PAs), and employers of family or friends as Personal Assistants.

This guidance is for Local Authority and Health & Social Care Partnership staff working in adult and children's services, including Social Workers, Social Care workers and SDS Leads. It is also relevant to Finance Officers, Commissioning Contracts, Legal and Audit Teams, who assess, approve and administer social work and social care and support (including carer support), SDS budgets.

This guidance is also useful for anyone involved in supporting, providing and receiving social care support. This includes supported people, PA employers, PAs, independent advice and support organisations, centres for inclusive living, advocacy organisations, community brokerage, payroll providers, care and support providers.

The aim of this guidance is to ensure supported people have flexibility of choice over how they manage their SDS budgets to meet their personal outcomes. This guidance also enables local authorities and health & social care partnerships to maximise flexibility of spend, to ensure people can develop their support arrangements to meet their personal outcomes in a way that works for them.

This guidance should be read in conjunction with the [SDS Framework of Standards, Social Care \(Self-Directed Support\) \(Scotland\) Act 2013](#) and the [SDS Statutory Guidance](#).

This SDS guidance does not relate to:

- The Independent Living Fund (ILF). This is a separate national scheme and has its own guidance: [ILF Scotland Coronavirus Update](#).
- Infection prevention and control for social care settings. This can be found in the: [Winter \(21/22\), Respiratory Infections in Health and Care Settings Infection Prevention and Control \(IPC\) Addendum](#).

This SDS guidance document relates solely to social care support funded by local authorities and health and social care partnerships.

Any recommendations made in this SDS guidance do not seek to supersede any legislation or other legal obligations, which may regulate any relevant parties to the SDS guidance. Recommendations are intended to offer additional operational support in line with legislative responsibility. Where there is a reference in this SDS

guidance to any legislation or statutory guidance, given the law can quickly change (perhaps before guidance is updated), users of this SDS guidance should check that those references are up to date and seek independent advice in appropriate circumstances

## 1. Social Care and Support Arrangements

In line with any restrictions that may be in place during the pandemic, decisions on modifying and re-opening individual services should be taken locally by providers, in partnership with statutory agencies, local authorities and health and social care partnerships. We expect local systems to balance the need to do what is right to be proactive and reactive during the pandemic, whilst ensuring social care support enables people to live safe and fulfilling lives.

Due to the significant demand and pressure being placed on the social care system, many local authorities and health and social care partnerships are experiencing a significant impact on their ability to deliver social care support. Assessments undertaken in accordance with SDS legislation will help to ensure best practice. This will help to ensure considerations of human rights, personal choice and direction of support are paramount.

Best practice approaches during these significantly pressured times should include open dialogue with carers and supported people around options available to deliver their social care support. This includes support to use personal budgets flexibly, and considerations of the impact of all available options under SDS, including using Option 1 to employ friends and family members. A strengths and asset-based approach should be maximised where possible, to ensure the individual receives support and services in ways that help them achieve their personal outcomes.

In line with the [SDS Framework of Standards](#), Self-Directed Support Options 1 and 2 should continue to enable the individual to choose how their care and support is organised, and how they spend the agreed budget. This may include switching to a different SDS option. More detail of this can be found in section 2 of this guidance.

The Threshold Sum is the Local Authority funding that forms the platform on which most ILF Scotland awards are built. Local authorities understand the importance of their own contribution to the care and support that ILF awards also sustain.

The Scottish Government expects local authorities to work in partnership with ILF Scotland to ensure all Threshold Sums are re-instated. This could be arranged by the restoration of direct services, or through the offer of alternative SDS options.

## 2. Maximising Flexibility

The pandemic continues to be challenging for many parts of the social care system and for people in receipt of SDS. In response to these pressures, the Scottish Government expects local authorities to exercise maximum flexibility in the provision of support through SDS.

We expect that local authorities and health and social care partnerships will adapt to meet changing circumstances. This may be done by continuing to maintain their welfare function by:

- carrying out regular reviews;
- holding good conversations and co-producing support plans with individuals and their support networks; and,
- organising social care support to meet personal outcomes, including making use of community supports and assets.

This will help to ensure everyone understands what matters to the individual and how their personal outcomes can be met.

There should remain a requirement to demonstrate a clear link between items and services purchased and the personal outcomes identified and agreed in an individual's support plan, adult carer support plan, or young carer statement.

Local authorities and health and social care partnerships should proactively communicate their approach to budgets for SDS Options 1 – Direct Payment and Option 2 – directing available support budgets, in a clear and transparent way. This communication should also be shared with independent support organisations such as centres for inclusive living, community brokerage services for disabled people, older people's organisations and carer centres.

A [model contract for Option 2](#) has been developed by Coalition of Care and Support Providers in Scotland (CCPS) to meet all legal requirements and can be either used as it is, or developed further to suit local circumstances.

### 2.1 Social Worker Autonomy

It is best practice to provide social workers with coaching and support to enable them to make decisions about budgets for an individual's care and support within agreed financial parameters, ensuring accountability and transparency. This approach provides frontline social workers with the flexibility to tailor the level of support that best meets individual personal outcomes in a way that matters to the person, reducing the timescales of any decision making process. This is in line with the [Self-Directed Support Framework of Standards](#), Standard 8 - Worker Autonomy.

Proportionate oversight is advised to streamline processes, reduce bureaucracy and speed up the time taken to deliver budgets, to arrange social care support, and enable changes to how an individual's budgets may be used.

## 2.2 Independent Support and Advocacy

The [Support in the Right Direction](#) (SiRD) independent support organisations can offer valuable independent support and advocacy to individuals and carers to enable them to consider flexible, strengths-based support options. This includes offering advice in using Option 1 to meet outcomes and help to recruit, support and employ Personal Assistants.

SiRDs can also advise professional staff regarding community support options and independent care and support providers that are available locally. Local authorities and health and social care partnerships should proactively ensure individuals and carers accessing or seeking social care support are aware of these organisations, enabling flexibility of choice. This is an overarching expectation, but is particularly important during the pandemic period.

## 2.3 Additional Costs

Particularly, during peaks of the pandemic, flexibility may result in employment of additional staff, payroll amendments and other associated administration for Direct Payment employers who are managing replacement care. Individuals who use their budget to pay for employment support (payroll providers etc.) and incur extra costs should be able to use their direct payment to cover these costs.

[The Financial Support Arrangements for Social Care Providers](#) guidance details how support for social care providers should be maintained, and what additional costs can be supported. This guidance is only for services that are delegated to the Integration Joint Boards as it is linked to the political agreement to meet reasonable additional costs through the Local Mobilisation Plans.

## 2.4 Incapacity

Where it has been assessed that a person does not have capacity or the ability to manage their own finances or the ability to make decisions about their own social care support, and they do not have a power of attorney or financial guardian, this flexibility will not be appropriate in some circumstances (in accordance with the [Regulation 8\(1\) of the Self-Directed Support \(Direct Payments\) \(Scotland\) Regulations 2014](#)). In this case, local authority social work services should refer to the [Adults with Incapacity \(Scotland\) Act 2000](#) and advocacy to support any decision making on behalf of the person. The professional judgement of social workers should ensure all decisions made on behalf of the individual are shared and discussed with the individual's support network.

## 2.5 Underspent Budgets

Where local authorities or health and social care partnerships have concerns about underspend of allocated budgets, these should be reconciled in line with local contractual arrangements. To ensure reconciliation is done accurately and

transparently, providers and Direct Payment holders should keep a record of decisions made, (e.g. deployment of staff, additional costs incurred) with a transparent and clear link to individual care plans (or adult carer support plans or young carer statements). All unspent funds in Direct Payment accounts should be returned to the local authority or health and social care partnership in the usual way.

It is acknowledged that local authorities or health and social care partnerships may have made local arrangements with providers about reconciling unspent funds, this SDS guidance is not intended to cut across those arrangements.

## 2.6 Contingency Planning

Contingency planning for support and use of budgets should be in place for all Direct Payment social care support packages. In accordance with good practice (see section on contingency planning for individuals who employ personal assistants (PAs) in [UK Government's guidance for local authorities in the delivery of direct payments](#)), these existing contingency plans should be reviewed for their relevance during the pandemic.

Consideration of the individual and their support network's general welfare, health and wellbeing should also be taken into account in contingency planning. The individual and their carers' views are paramount in developing this plan to ensure that risks are jointly identified and mitigated.

## 3. People At Highest Risk From COVID-19 (previously referred to as shielding)

People at highest risk from Coronavirus (COVID-19) (formerly known as those on the shielding list) are a specific group of people at very high risk of severe illness from the virus. People in this group originally received a letter formally advising them of their status.

The whole of Scotland moved to "beyond Level 0" on the 9<sup>th</sup> August 2021. At "beyond Level 0", people at highest risk were asked to follow the same advice as the rest of the population.

Information on what beyond Level 0 rules mean for people in the highest risk group can be found [here](#). Those at highest clinical risk must continue to be cautious to help keep themselves safe.

Further advice for those in the highest risk groups can be found [here](#), which includes information on [The Distance Aware scheme](#) is designed to help those worried about mixing with others as we adapt to living with COVID-19. This scheme provides lanyards and badges indicating that those wearing them require space to feel safe.

## 4. Personal Assistants (PAs)

### 4.1 Flexibility to Employ Family Members

Under the [Self-Directed Support \(Direct Payments\) \(Scotland\) Regulations 2014](#) an individual can employ a close relative or family member as a PA, with agreement from the local authority. This flexibility is important as it provides the opportunity for such arrangements where it is the best solution to meet the personal outcomes and needs of the individual. This is in line with the general principles and intentions behind SDS, which are to provide creative and effective solutions for those receiving social care support.

Whether as a PA or unpaid carer, professional judgement should inform all decision making in relation to appropriateness of family members being employed as PAs. Decisions should be taken on a case-by-case basis, taking account of the family member's health, their capacity and willingness to provide the required care support, and other welfare and wellbeing factors. Adult support and protection concerns involving individuals or family members should always be taken into consideration. There should be no blanket policy to refuse permission to employ a family member as a PA. Decisions to refuse should only be based on a reason specific to the individual case.

Family members may also be employed as a temporary PA. The individual in receipt of this support should ensure that there is a clear procedure for the original, or a new, PA to resume or start their role when possible. The family member employed to provide replacement care should understand this arrangement may be temporary.

If the family member is acting as Power of Attorney or Guardian and managing a Direct Payment, it is prohibited under the [Regulation 9 of the Direct Payment Regulations](#) for them to be employed as a PA for the person who granted the Power of Attorney or is subject to the Guardianship Order.

### 4.2 Ensuring Fairness and Equity for the PA Workforce

PAs should have access to entitlements and support that other social care workers have, including Fair Work practices and access to support as essential key workers. The [PA Employer's Handbook](#) is a tool that provides details on how to embed quality assurance as an employer when employing PAs using Option 1 – Direct Payment. The letter [Coronavirus \(COVID-19\) - key workers definition and status](#) from the Scottish Government and COSLA on 30<sup>th</sup> March 2020 that confirms PAs have key worker status. Further support and advice for PAs can be found at [Personal Assistant Network Scotland](#).

Where proof of identity is perceived to be an issue, the employer, the local authority or an advice organisation can write a letter as proof of a PAs employment. A template letter can be found in [Appendix 1](#) and can be adapted to suit individual circumstances.

Option 1 – Direct Payment budgets must enable the PA employer to pay at least the Real Living Wage.

From 1<sup>st</sup> December 2021, this rate of pay rose to £10.02 for social care workers who work within the third and independent sectors. Payments will be made via the local authority, by applying a 5.47% uplift to a percentage of the contract value. These percentages are below:

- Residential services - 71% of the contract value
- Non-residential - 86% of their contract value
- PAs – 89% of their contract value

In the budget for 2022/23, the Finance Secretary announced that the minimum hourly rate for those providing adult social care will rise to £10.50 per hour in the financial year 2022/23.

### 4.3 Social Care Staff Support Fund

The Scottish Government has established the [Social Care Staff Support Fund](#) to ensure that social care workers, including PAs, receive their expected income if they are ill or self-isolating in line with public health guidance, as a result of the Coronavirus (COVID-19). The link above also includes further information relating to eligibility and criteria.

PA employers are asked to pay eligible staff who meet all of the [Social Care Staff Support Fund](#) criteria their normal pay should the PA be ill with confirmed or suspected Coronavirus (COVID-19), or self-isolating in line with public health guidance. The fund criteria are set out in the information on the Scottish Government website [here](#).

Where a PA employer has paid out a sum from a direct payment in line with this purpose, the local authority should increase the direct payment by the relevant amount.

If a PA needs to self-isolate due to the Coronavirus (COVID-19), and where contingency arrangements are exhausted, the employer may need to ask the local authority for additional funding for replacement care and support for the duration of the PA's period of self-isolation.

### 4.4 Death in Service

[The Coronavirus \(COVID-19\): Social Care Worker Death in Service Payment Scheme](#) was introduced following the high risk workers are exposed to while performing frontline duties and providing care to Coronavirus (COVID-19) patients.

The scheme recognises the vital contribution of social care workers, including PAs, in tackling the Coronavirus (COVID-19) pandemic. A named survivor of a social care worker who has died in service as a result of, or the suspected result of, contracting

Coronavirus (COVID-19) at work, may wish to apply for this payment. Details on eligibility and how to apply are provided in the link above.

## 4.5 Maximising the Capacity of the PA Workforce

The PA workforce is of critical importance to social care and is regarded by the Scottish Government to be a key part of the social care workforce. There are currently approximately 5,000 PAs who applied for the thank you payment working in this sector, and it is a priority to retain them throughout the pandemic and beyond.

Where a PA employer is self-isolating or following [additional protection levels advice](#), tasks that do not involve entering the house such as shopping and collecting medication, can still be undertaken by the PA.

## 5 Self-Isolation for Social Care Staff

A high number of staff self-isolating would put additional pressure on already fragile social care services, and we would therefore like to emphasise the current guidance for social care that includes social workers and essential residential childcare staff (and health care staff). Health and social care staff are eligible for the self-isolation exemption. Further information is available online at [NHS Inform: Coronavirus \(COVID-19\): Self-isolation exemption for health and social care workers](#).

If a staff member declines daily LFD testing, they must not return to work in a physical setting and where possible, should instead work from home during the 10 day isolation period. Staff are advised that they should also follow the Scottish Government guidance on isolating after the initial close contact, when they are not at work or carrying out work related activities.

## 6. Access to Personal Protective Equipment (PPE) and Testing

Information for social care providers, personal assistants, and unpaid carers on how to access personal protective equipment (PPE) can be found at [Coronavirus \(COVID-19\): PPE access for social care providers and unpaid carers](#).

The Scottish Government has published [PPE advice for personal assistants](#), while supporting people with personal care such as washing or dressing. Employers should refer to this when determining what PPE is appropriate to wear and how it should be disposed of, in accordance with their duties, to ensure a safe workplace.

There is similar [advice for unpaid carers](#) who visit or live with a friend or family member to provide help through personal care.

For all other social care staff and carers, tests can be collected at your local pharmacy or test site – see the following link to find the nearest location ([Find where to get rapid lateral flow tests - NHS \(test-and-trace.nhs.uk\)](#)) Lateral flow tests can also be ordered online using [Order coronavirus \(COVID-19\) rapid lateral flow tests - GOV.UK \(www.gov.uk\)](#).

We ask that social care staff and carers record their result (positive and negative) on the following portal [Report a COVID-19 rapid lateral flow test result - GOV.UK](https://www.gov.uk/report-a-covid-19-rapid-lateral-flow-test-result) ([www.gov.uk](https://www.gov.uk))

## 7. Links Relevant to this Guidance

[Social Care \(Self-Directed Support\) \(Scotland\) Act 2013](#)  
[Self-Directed Support Act 2013 – Statutory Guidance](#)  
[Coronavirus \(COVID-19\) Act 2020](#)  
[ILF Scotland Coronavirus \(COVID-19\) Update](#)  
[SDS Options 1 and 2 – Frequently Asked Questions](#)  
[Health and Care Settings Infection Prevention and Control Addendum.](#)  
[Self-Directed Support Framework of Standards](#)  
[Carers \(Scotland\) Act 2016](#)  
[Carers \(Scotland\) Act 2016 Statutory Guidance \(updated 2021\)](#)  
[Model contract for Option 2](#)  
[Support in the Right Direction](#)  
[Self-Directed Support \(Direct Payments\) \(Scotland\) Regulations 2014 Section 8.1](#)  
[\(Circumstances where family members may provide support\)](#)  
[Coronavirus \(COVID-19\): financial support arrangements for social care providers](#)  
[The Covid-19 Strategic Framework](#)  
[Highest Risk List](#)  
[Self-Directed Support \(Direct Payments\) \(Scotland\) Regulations 2014](#)  
[Self-Directed Support \(Direct Payments\) \(Scotland\) Regulations 2014 Section 9](#)  
[\(Circumstances where family members are unable to provide support\)](#)  
[PA Employer’s Handbook](#)  
[Coronavirus \(COVID-19\) - key workers definition and status letter](#)  
[Pay rise for Social Care Staff agreement](#)  
[Social Care Staff Support Fund](#)  
[The Coronavirus \(COVID-19\): social care worker death in service payment scheme](#)  
[Coronavirus \(COVID-19\) Job Retention Scheme](#)  
[Coronavirus \(COVID-19\) Job Retention Scheme – people receiving Direct Payments](#)  
[Coronavirus \(COVID-19\): PPE access for social care providers and unpaid carers.](#)  
[PPE for Personal Assistants](#)  
[Unpaid Carers providing Personal Care](#)  
[Care Information Scotland Website](#)  
[Winter \(21/22\), respiratory infections in health and care settings Infection Prevention and Control \(IPC\) addendum.](#)

## Appendix 1 - Model Letter Proving Personal Assistant Identification

To whom it may concern,

### **Re: Personal Assistant/Social Carer Identification**

I certify that ..... is a Personal Assistant who is employed by me to provide critical care and support.

Please accept this letter as confirmation of key worker status as notified by the UK Government as part of Coronavirus (COVID-19) Health and Social Care response\*.

If you have any questions about the use of this letter please contact Personal Assistants Network Scotland on 01563 522551 or [info@panetworkscotland.org.uk](mailto:info@panetworkscotland.org.uk)

Contact Details (address and contact number of employer):

Signed .....

Dated .....

### **Self-Directed Support Direct Payment Funded Employer**

#### **\* Health and Social Care Critical Workers**

This includes but is not limited to doctors, nurses, midwives, paramedics, social workers, care workers, and other frontline health and social care staff including volunteers. More information can be found [here](#).

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Any enquiries regarding this publication should be sent to us at

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