

Self-directed Support

Use of direct payments to employ family members module



Welcome

Learning Objectives

- Gain an understanding of what's 'new' in relation to employing family members
- Gain an understanding of when a payment may or may not be agreed
- Explore potential challenges and considerations for both families and practitioners
- Identify ways of ensuring outcomes are met where a direct payment is agreed with a family member

Overview

- Local Authorities have always had some discretionary powers to make direct payments to family members (Since 2003)
- Local Authorities have used their discretionary powers in the main due to issues of geographical remoteness and ethnicity
- The intention is not to pay family members for undertaking family caring duties that are usually provided as part of existing caring roles
- Employing family members can create a very different relationship and there may potential for conflict of interest
- Careful consideration, professional assessment, analysis, negotiation with all concerned in required.

What's new?

A direct payment to a family may be considered when:

(1) There is agreement between, the family member, direct payment user, and Local Authority

&

(2) The family member is capable of meeting the direct payment user's needs

AND...

What's new? (continued)

Any of the following:

- Due to limited choice of service providers
- Where the direct payment user has specific communication needs
- The family member can provide support required at times which can't be met by a provider
- The direct payment user chooses a family member to meet their needs in light of the intimate nature of that need
- The supported person has religious or cultural beliefs that make the arrangement preferable to them
- The direct payment user requires palliative care
- Where emergency/short term care arrangements are required
- For any other reason the Local Authority determines it to be appropriate

Respect

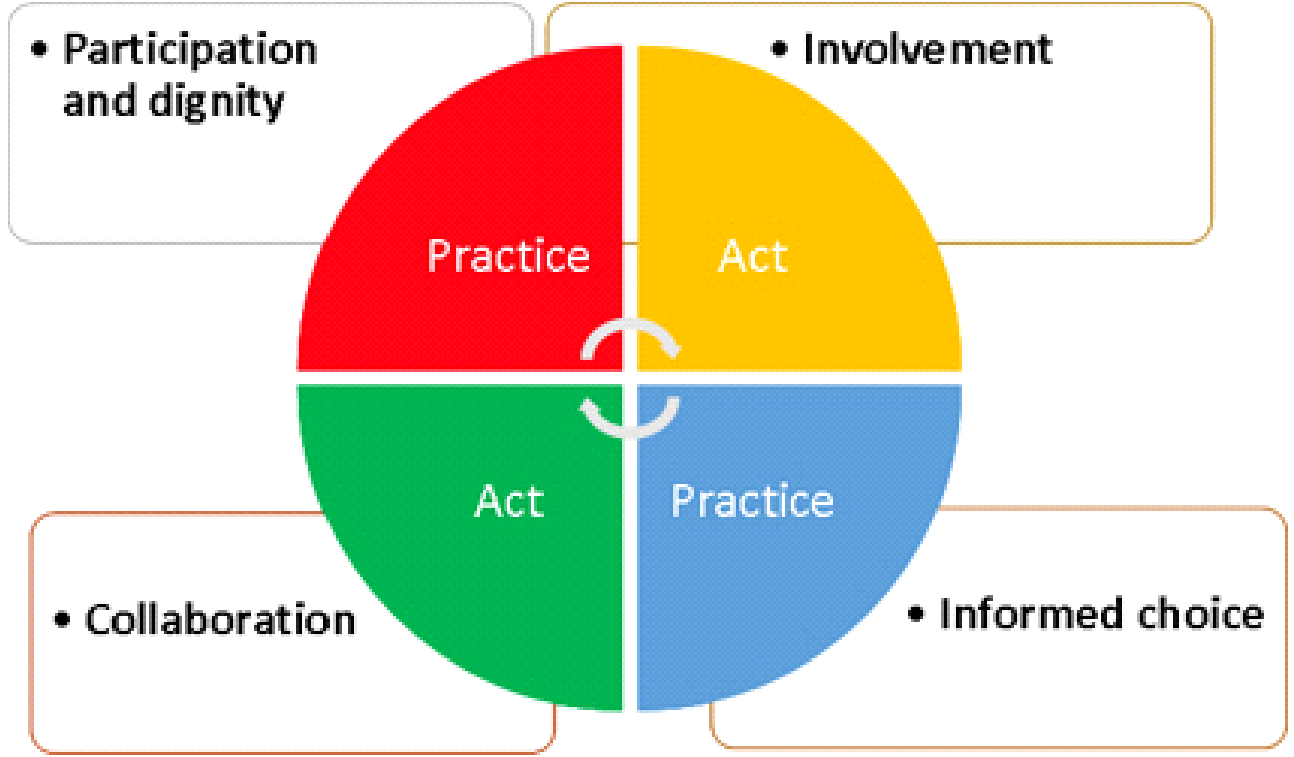
Fairness

Independence

Safety

Freedom

Statutory Values and Principles of the Act



Definition of a “family member”

Under the new 2014 regulations

- The spouse or civil partner of a direct payment user
- A person who lives with the direct payment user as if their spouse or civil partner
- Direct payment user’s parent, child, brother or sister, aunt or uncle, nephew or niece, cousin, grandparent, grandchild (as well as the spouse or civil partner or any of these and a person who lives with any of these persons listed as if they were their spouse or civil partner.)

Activity 1



Discuss in small groups what the complexities and potential challenges involved in employing a family member are?



Coffee

The regulations define 'exception to the family members rule' where:

- The Local Authority determines the family member or direct payment user is under undue pressure
- The family member is a guardian, continuing attorney or welfare attorney with power to make decisions re. the support to be provided through the direct payment
- Includes a person, granted under a contract, grant or appointment governed by law, powers re. direct payment user's personal welfare and having effect during direct payment user's incapacity
- If the arrangements do not meet the person's needs (already in existing legislation)
- If the arrangements place the direct payment user in any unacceptable risk – duty of care takes precedence.

Activity 2



What might be an example where the Local Authority would agree a direct payment to a family member? With the regulations in mind – what are the determining factors?

What might be an example where a Local Authority may not agree to make a direct payment? With the regulations in mind – what are the determining factors?

What does this mean...?

- Regulations have binding legal status and can't be ignored
- Everyone involved must be in agreement – the views of the direct payment user must be sought and taken into consideration. The ultimate decision, however, lies with the Local Authority
- Considerable information, analysis and discussion is required to enable informed choice
- Discussion is required throughout the process – particularly the support planning stage
- Advantages and disadvantages should be openly discussed with all involved
- Potential complex dynamics within the family should be fully explored and discussed -the potential change in the relationship and the impact

Considerations for practitioners

- Open discussion is required and the practitioners must be satisfied all parties involved are comfortable with the arrangement
- Discussion is required about how:
 - potential concerns will be highlighted, recorded and addressed
 - the quality of the support is determined
 - the support will be monitored
 - Any potential risk factors are identified and how these are prevented
 - appropriate information is made accessible and given to all involved
- Ultimately the regs state a family member must be “capable of meeting (a person’s) needs”- are you satisfied a person's intended outcomes can be met in this way? (as with every other option)
- Any decision to refuse a direct payment to a family member must be well evidenced (documented and explained)

Considerations for practitioners continued...

- It is important for the carer to have a sound understanding of the roles and responsibilities as a employer and how to balance this along side their personal relationship.
- Consideration must be given to the type of information given, any training and practical support the family member may need
- The carer may feel under pressure to undertake this role

Activity 3



Over coming potential challenges and maximising safety....

Using the Rebecca's story provided, imagine you are the practitioner involved. How will you ensure this arrangement is appropriate and safe for the direct payment user.

- What further information is required?
- Who would you speak to?
- What do you see are the essential elements of a support plan?
- In what way would you minimise any potential risk?
- How would you ensure that everyone involved was well informed and fully understood the process?
- What considerations would you give to the monitoring and reviewing process?

Key messages

- Discretionary powers already exist for employing a family member
- Employing a family member to provide care can significantly change the dynamics of the relationship.
- The regulations define these discretionary powers in more detail
- This is a complex area and requires analysis and negotiation
- Robust assessment, support planning, monitoring, and reviewing arrangements are essential in order to ensure this is the best option
- All involved within the process must be in agreement, well informed and aware of the nature, effect and consequences
- The Local Authorities duty of care remains a paramount consideration at all times

Useful/suggested reading:

- Statutory Guidance and Regulations 'The Social Care (Self-Directed Support) (Scotland) Act 2013' – Scottish Government
<http://www.scotland.gov.uk/Publications/2013/11/3923>
- Practitioner Guidance – Self-directed Support (ADSW)
- Self-directed Support Scotland – frequently asked questions
- <http://www.selfdirectedsupportscotland.org.uk/directing-your-own-support/frequently-asked-questions>
- National Guidance on Self-Directed Support – Section 5: Employing staff: personal assistants and close relatives Scottish Government
- <http://www.scotland.gov.uk/Publications/2007/07/04093127/10>
- National Guidance on Supporting Carers – Scottish Government
- <http://www.scotland.gov.uk/Publications/2003/03/17023>
- Getting it right – Assessment for black and minority ethnic carers and service users
Institute of Research and Innovation for Social Services (IRISS)
- <http://content.iriss.org.uk/bme/>



Questions



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