

# What can we do about Option 2?

## Points on Practice

The Social Care (Self-directed Support) (Scotland) Act, 2013 commenced in April this year. It places a number of duties on local authorities including the requirement to offer people assessed as being eligible for care and support different degrees of choice and control over the budget (money) for their support.

The four options are:

- Option 1: Direct Payment. The person has full financial control and responsibility for their budget.
- *Option 2: The budget is held by the local authority, provider or other third party organisation and the person directs how their budget is spent.*
- Option 3: the local authority chooses and arranges support.
- Option 4: A mixture of 2 or more of options 1-3.

Option 1 (Direct Payment) has been in statute since 1996 and Option 3 (local authority directs) has, until recently, been the most common way of arranging support in Scotland. Information from local authorities, providers and service users suggests that Option 2 is the most challenging to implement in a way that promotes meaningful choice and control for individuals.

Although Option 2 is new, and challenging to implement it does give contracting authorities and providers an opportunity to experiment with different approaches to maximising choice for supported people and working out flexible ways to contract for social care.

### **Use it to test our understanding of choice and control in social care**

Direct Payments have been available since 1996 and local authority arranged services have been

the norm for many years. Option 2 is a new approach offering maximum flexibility without full budget control. Because of this it highlights how the values and principles of SDS interact with other policy and practice drivers such as procurement, liability and risk, duty of care and approaches to commissioning.

### **Make sure it is distinct from Option 3**

There are a range of ways to administer Option 2. So long as the effect of these processes is to give people the maximum possible control and choice over their budget then Option 2 is operating the way the legislation intended.

### **Develop Option 2 in partnership**

It's easy to claim something has been co-produced but time consuming and challenging to develop anything in real partnership with supported people, their representatives and providers of support. Real co-production means getting people round the table early; acknowledging and working with power dynamics and being willing to compromise.

### **Develop contracts that don't restrict flexibility**

Contract approaches to option 2 vary considerably. The best of these recognise that flexibility of support is key to day-to-day choice for supported people and that the negotiations for this are best done between the person and the provider- not specified in an overarching contract.

### **Develop contracts that don't restrict creative support planning**

Contracts for Option 2 should guard against over specification of service. Outcomes based support can't happen where outputs (tasks, activities, and times) are highly specified. The use of the 'Essential service' approach (where a segment of the Option 2 budget spend is controlled by the contracting authority) should be avoided.

## Develop contracts that share cost, risk and liability

Contracts which attempt to place business risk and liability on the outsourced provider do not encourage innovation and creativity.<sup>1</sup> Contracts which place the financial burden for administration for Option 2 on the provider (while at the same time capping or restricting hourly rates/unit costs) create conditions which place outsourced providers at risk of going under (with consequent impact on service continuity and choice of support provider.)

## Think about what message your contract sends

Because Option 2 places increased control in the hands of the supported person it challenges the established power dynamics of the purchaser/provider relationship. Many of the contracts developed for Option 2 are detailed, lengthy and based on the premise that the contracting authority must retain as much control as possible.

Relationship contracting is a way of thinking about contracts that acknowledge that contracts are a written expression of the 'real' contract- the relationship between commissioner, contractor and purchaser. Interestingly this contract approach is used for very high value commercial contracts such as major building projects - the shorter the contract the better the relationship. What message does your contract send- does it demonstrate trust in supported people to make good decisions? Does it demonstrate trust in outsourced providers to get on with their core

<sup>1</sup> High barrier contracting constrains innovation .Gash et al (2013 ) <http://bit.ly/1kYT0RK>

business of providing personalised care and support?

## Use Option 2 to encourage a range of providers and types of support

A low barrier, proportionately specified contract arrangement for Option 2 can help support a range of providers and types of support (s. 19 Social Care (Self-directed Support) Scotland Act). Contracting approaches should be checked against a market facilitation strategy/ commissioning strategy for the local area to make sure that the contracting approach doesn't work against the aims and objectives of the commissioning plan.

## Check out the practical implications of proposed monitoring arrangements

Option 2 requires a fundamental shift in control from the contracting authority to the individual. This shift won't happen where monitoring arrangements are disproportionate or excessively costly to the budget holder. It is useful to check out the practical implications of monitoring arrangements with the Option 2 budget holder and keep some key questions in mind:

- What is the purpose of collecting this information/data?
- What are we going to do with this data when we get it?
- Are we duplicating the collection of information/data (e.g. is quality data collected by the Care Inspectorate)

## Resources

- Relationship contracting <http://bit.ly/1pKXCd1>
- Beyond Big Contracts" <http://bit.ly/LXnFPk>
- Saving Money by doing the right thing" <http://bit.ly/1IBSCER>
- Workshop guide: <http://bit.ly/1rlo503>



## About P&P

P&P is a four year policy and practice change programme supporting providers to prepare for, and showcase good practice in the journey to Self-directed Support. P&P is open to all third sector care and support providers.

More about P&P <http://www.ccpscotland.org/pp>

## Legal

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