



## **Frequently Asked Questions to accompany Scottish Government and COSLA [Guidance](#) on Self-directed Support Option 1 and Option 2 during the Coronavirus pandemic**

These **Frequently Asked Questions** accompany National Guidance that has been developed jointly by the Scottish Government, the Convention of Scottish Local Authorities (COSLA) and Social Work Scotland in response to issues raised early on in the pandemic. They address issues voiced by people who use social care support, employers of personal assistants, personal assistants, independent advice and support organisations, providers of services and Local Authorities.

- These FAQs are for Employers of Personal Assistants (PAs), Personal Assistants employed by people using a Direct Payment and for organisations who provide independent advice and support to employers.
- These FAQs are relevant for the duration of the COVID-19 pandemic.
- These FAQs will be updated and available on the Social Work Scotland website and contain links to partner organisations and the UK Government Coronavirus Website.
- In line with the national guidance linked above, these FAQs also recognise the [SDS COLLECTIVE CALL TO ACTION](#) which states the fundamental starting point that people must continue to access the support that they need to assist them in staying as safe and as well as possible and maintain their human rights dignity and respect at this time.

**The FAQs have been structured around the following statements. Please use the links below to take you to the relevant FAQ section.**

1. [National Guidance for Self-directed Support Options 1 and 2](#)
2. [Flexible use of Options 1 \(Direct Payments\) and Option 2](#)
3. [Employing family members](#)
4. [Changes to care and support arrangements during the pandemic](#)
5. [Funding of care and supports during the pandemic](#)
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## **1. National Guidance for Self-directed Support (SDS) Options 1 and 2**

### **What are the key messages in the National Guidance for Self-directed Support Options 1 and 2?**

1. People's human rights, dignity and respect remain at the forefront of any existing and new care and supports being delivered at this time.
2. Additional funding has been made available to Local Authorities to be able to maintain levels of care and support during the pandemic where possible, although it is acknowledged that additional workforce pressures are expected.
3. Flexible use of direct payments and option 2 will be necessary when staff are self-isolating or shielding and cannot provide the care they are employed/commissioned to deliver.

## **2. Flexible use of Option 1 (direct payment) and Option 2**

### **Can I use my direct payments in different ways to meet my care and support needs?**

During the pandemic we expect Health and Social Care Partnerships (HSCPs)/Local Authorities (LAs) to take a flexible approach with regards to the use of direct payments and respond appropriately in line with the spirit of the [Social Care \(Self-directed Support\) \(Scotland\) Act 2013.](#)

It is critical that your care and support is maintained, and as far as possible your direct payments should continue to be used as agreed in your support plan. There may however be circumstances when this is not possible, for example: when staff need to self-isolate or shield. In these circumstances, you should explore creative approaches in line with the guidance.

If there is a clear need to use your direct payment in a different way to enable you to keep safe and well you should speak to your Social Worker/Social Care Worker from your local authority regarding these changes.

### **What sort of things can I use my budget for at this time?**

You may be able temporarily to employ additional staff, spend your Direct Payment on transport, IT equipment, shopping delivery, gym equipment to meet your outcomes, or other creative uses of your budget.

Any changes to your care and supports should be discussed with your Social Worker/Social Care Worker from your local authority. If your worker is absent then please contact your local authority to discuss options.

### **What if I need to employ extra staff at this time?**

Employing additional staff at this time may mean that you have to make changes to payroll and incur additional costs associated with managing replacement care. You should communicate your needs to your local authority so that your funding can be accessed for any additional care and support that is required.

If you use your budget to pay for employment support (payroll providers etc.) and incur extra costs, the national guidance recommends that you should be able to use your Direct Payment to cover these costs. This should be done within a reasonable timeframe.

Independent Support organisations will be able to help you with advice and support around using your Direct Payment to meet your needs. If your area does not have an independent Support Organisation you will need to contact your Local Authority for advice. To find your local Independent Support organisation visit the [SDS Scotland](#) website and click 'find help' in the top right corner.

As in normal circumstances, you must retain any receipts or evidence of purchases as you would normally and keep a note of how you have used the Direct Payment to meet your personal outcomes and to continue your care and support.

### **Can my direct payment be used to cover additional expenses incurred by my personal assistant?**

If your Personal Assistant incurs extra costs related to them providing you with the support that you need, it may be possible to use your existing SDS budget, or contingency budget, to pay these additional costs. However, it is advisable to contact your social worker/social care assessor from your local authority to agree this. Relevant receipts will need to be kept as required.

If in doubt please contact your Local Authority Social Work or Healthcare team for advice.

If you have difficulty in making decisions or don't have the support you need to make informed decisions, you can ask your local Independent Support Organisation for help with this. To find your local Independent Support organisation visit the [SDS Scotland](#) website and click 'find help' in the top right corner.

### **3. Employing family members**

#### **Can I employ a family member to provide my care and support while I am self-isolating?**

Under the Direct Payment 2014 Regulations the Local Authority can agree to a supported person employing a close relative or family member where this is the only option or under 'exceptional circumstances'. Coronavirus is regarded as a time of exceptional circumstance.

During the pandemic family members may be the only people available to provide support on a temporary basis, particularly if you are self-isolating, shielding or your Personal Assistant is unwell, self-isolating or shielding.

Family members may be willing to help out temporarily on an unpaid basis. However, there may be occasions, for example, if a family member loses income as a result of taking on a caring role during the pandemic, you may want to employ them to help keep you well.

Your social worker/social care assessor from your local authority, the family member and you must all agree that the family member is capable of meeting your needs and understands that this requires a formal contract for employment.

This must be agreed with your social worker/social care assessor before the family member starts working for you.

#### **If I employ my family to provide my care and support how can I ensure they are supported, their wellbeing is maintained, and they have access to training if needed?**

The family member's own health and wellbeing and their ability to take on this role needs to be considered by you and your worker. Their childcare arrangements should also be taken into account. PAs are regarded as key workers and are entitled to frontline worker school places. Any unreasonable strain this could put on the relationship between yourself and your family member also needs to be taken into account.

Any family member employed in these circumstances should understand that it is a temporary arrangement. The [Personal Assistants Network](#) provides advice, support and learning for Personal Assistants. PAs can also access assistance with any wellbeing issues they may have from the [National Wellbeing Hub](#).

Family members should be aware that taking on paid care and support work could impact on any benefits they receive. Contact [your local Welfare Rights Team](#) to discuss this or access information on Scottish Benefits.

The usual employment and payroll processes, such as the production of a temporary contract, payroll, and employer insurances, all need to be in place. Hours of work and rates of pay need to be agreed in a formal employment contract that meets your personal outcomes as agreed with your social worker/social care assessor.

Where a family member is providing replacement care for a PA and when circumstances permit the PA returning to work, then this should happen immediately.

### **I have employed a family member but it's not working for me. What can I do?**

If you are not comfortable having a specific family member providing paid support for you during the pandemic, please talk to a social worker or relevant professional about your concerns.

If you have concerns for your safety about a specific family, this family member should not be employed as your Personal Assistant and you should speak to your Local Authority for alternative supports at this time.

### **Can my Guardian or Power of Attorney be employed as my PA if they are managing my Direct Payment?**

If the family member is acting as Power of Attorney or Guardian and are managing a direct payment, they are not allowed under Direct Payment regulations to be employed as a Personal Assistant. See [Section 9 of the Self Directed Support Direct Payment Regulations 2014](#).

## **4. Changes to care and support arrangements during the pandemic**

### **If I choose to suspend my care and support while I am self-isolating because of the risk of infection, will my direct payments be reviewed or reduced permanently?**

Your budget should not be permanently reduced or stopped without a full assessment/ review being carried out by a social worker/social care assessor.

Your budget should not be temporarily reduced, even if the level of support you can access reduces at this time. You may need to use your budget for replacement support, and to agree this with your Local Authority. (This is in line with Option 3 Commissioning Guidance).

Additional services may be put in place for you without a full assessment. If this is the case you will not be charged for any of these services at this time.

Scottish Government and COSLA have committed funding to ensure that the funding of care packages is not reduced, although we recognise that additional workforce pressures during the pandemic may temporarily affect the support you receive.

**Do I continue to pay my provider even when they are not providing me with care and or support at this time?**

To prevent providers losing money at this time you should continue to pay them for your agreed support. If you require replacement care then please speak to your social worker/social care assessor from your Local Authority to ask for additional funding for this.

Additional funding incurred as a result of the pandemic can be claimed back by your Health and Social Care Partnership from the Scottish Government via their Mobilisation Plan. Any double funding given to providers will be identified through contract monitoring and commissioning processes and reconciled at a later date.

**Are there any reasons why my care and supports may reduce during the pandemic?**

Any changes to your care and support arrangements would be caused by unavoidable factors such as when staff are self-isolating, or shielding, staff illness, your hospital admission or the inability to deliver respite and other services in group settings at this time. Any service reduction or postponement should be explained to you, and you should be advised that this will be a temporary change.

<b>5. Funding of care and supports during the pandemic</b>
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**I am concerned that I may need additional funding to cover the cost of replacement care and support at this time. Will this happen?**

Funding will continue during the pandemic so that you can keep paying your PA/s or service provider/s. This applies both to Option 1 (direct payments) and funding for Option 2 care and supports.

If you need replacement care and support, please contact your Social Work/ Healthcare Team to discuss flexible alternatives.

You may need to contact your local Independent Advice and Support organisation or [Advocacy organisation](#) for advice and support in raising your concern. To find your local Independent Support organisation visit the [SDS Scotland](#) website and click 'find help' in the top right corner.

**Can I use my contingency fund or unspent funds at this time to meet my needs?**

You can use your contingency fund in line with what has already been agreed with your social worker/social care assessor. Alternative uses of this funding should be agreed with your social worker/social care assessor from your local authority.

If you do not have a Contingency Plan it is good practice to develop one and share this with your social worker/social care assessor from your local authority.

### **I have recently received extra funds in my Direct Payment what is this likely to be for?**

From 1 April 2020, all adult social care workers should receive at a minimum the real living wage of £9.30 per hour. If you have received extra funds in your Direct Payment it is likely this is what it is for. You may want to clarify this with your social worker/social care assessor.

## **6. Rapid access to care and support during the pandemic.**

### **Can I change my SDS option during the pandemic?**

In line with the Self-directed Support (Scotland) Act 2013 you should be able to change your options to meet your personal outcomes during the pandemic.

At this time it may be necessary for you to consider using an alternative SDS option to best meet your needs for a temporary period. For example, where an Option 3 provider experiencing higher than usual staff sickness cannot meet your needs, you may want to use a Direct Payment under Option 1 or to choose an alternative provider under Option 2.

If there are problems in delivering your care and or supports under Option 2 you may consider accessing another provider or using an allocated Individual Service Fund (ISF) (where this is provided by your Local Authority) in alternative ways to meet your outcomes. This is set out in the [Statutory Guidance](#) for the Social Care Self-directed Support (Scotland) Act 2013 on page 51.

As in normal circumstances, Option 2 should not be limited to approved providers or those on Local Authority Commissioning Frameworks. You and your worker can explore flexible and creative ways to meet your assessed needs.

### **What happens if provider rates change when I change the SDS option?**

Provider rates may vary according to the option chosen. This may mean that the same provider charges you a different rate if you move from Option 1 to Option 2 or vice versa. If this is the case, you should discuss it with your social worker/social care assessor. Every effort should be made to ensure the most appropriate support is provided at this time to meet your needs.

## **7. Assessment of needs during the pandemic**

### **What might an assessment look like at this time?**

Assessment may look different at this time so that your local authority can carry out rapid assessment with you to get services and supports to you quickly to meet your needs. This has been explained in the [Scottish Government Guidance](#) for assessment during the pandemic.

Workers responsible for undertaking social work assessments will use their professional judgement to ensure your safety and protection, and support your human rights and dignity. Your worker has a responsibility to understand the Social Care (Self-directed Support) (Scotland) Act 2013. This means offering you all of the Self-directed Support options.

If your Local Authority cannot do a full assessment at this time they will undertake a partial assessment with you or simply provide services to meet your needs. This can be done under the Coronavirus (Scotland) Act 2020, which is emergency legislation in place for the duration of the pandemic.

### **Will I be charged for services at this time?**

#### For care packages established prior to the pandemic

If your care and support package established prior to the Coronavirus pandemic remains unchanged then charges/contribution can still be applied as usual.

#### For new care packages

If you need care and support for the first time then the local authority may choose to carry out a partial assessment or simply provide care and support without an assessment.

No charges will be applied for changes to services put in place for you under these conditions. Only following a full assessments can you be charged for services that meet your personal outcomes.

If a full assessment is carried out and you are given choice and control over your care and supports then charges can be levied.

## **8. Contingency planning during the pandemic**

### **Should I develop a contingency plan?**

Contingency planning is recommended to ensure your needs can continue to be met when things go wrong.

It may be that the care arrangements that you have in place, both paid and unpaid, may be reduced, altered or may break down during the pandemic. It is important that



you and your carers are prepared and able to respond appropriately if and or when this happens.

### **How do I develop a contingency plan?**

A template contingency plan can be found [here](#).

This template contingency plan contains prompts to help you think about some of the situations you may need to plan for in relation to your care and support, and it allows you to record essential information about yourself and your situation, including what care and support you need, and how you would like it to be delivered.

### **Who can help me develop my contingency plan?**

It would be helpful if your current paid/unpaid carers supported you in the development of this plan, and where possible, it should be discussed and agreed with your social worker/social care assessor. Local Independent Support Organisations can also assist you with the development of your plan.

<b>9. Personal Assistants are Key Workers and are entitled to the same rights as other care workers at this time.</b>
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### **Is my PA a keyworker and are they entitled to all of the supports available to other key workers during the pandemic?**

[A letter from Scottish Government and COSLA](#) was sent to all Local Authorities on 30 March 2020 confirming that PAs should be regarded as keyworkers throughout the pandemic.

As your Personal Assistant is an essential key worker, they should have access to all of the entitlements and support that other key workers have throughout the pandemic, including

- access to Personal Protective Equipment (PPE) in line with health and safety legislation
- being able to shop in supermarkets at allocated times for keyworkers
- access to school places for their children.
- access to coronavirus testing if they develop symptoms

### **How can my PA prove to the authorities that they are out and about supporting me?**

You should provide your PA with a letter confirming identity and proof of employment. A template can be found in the Guidance for [Direct Payments and Option 2](#), p13, so if they are questioned about their status they can prove it.

### **What if my PA is self-employed?**

If your PA is self-employed, they can access information and support [here](#)

### **Should my PA be paid the Real Living Wage of £9.30 per hour?**

As an employer using Option 1 (Direct Payment) your budget enables you to pay at least the Real Living Wage of £9.30 per hour from 1 April 2020. Funding for this has been agreed nationally by the Scottish Government and COSLA in the [Fair Work Practice letter](#).

If this is not yet in place, you should raise it with your social worker/social care assessor as soon as possible.

### **Can my PA work for another person or agency while I am self-isolating or shielding?**

Your PA may be able to work temporarily for another employer at this time. If it is written in their contract of employment that they need your permission to do this then they should ask you before they take on any other work.

Your PA may agree to work in a voluntary capacity for a new employer or may take a temporary contract. The PA may also choose to take work with a support provider organisation commissioned by the local authority.

You should ensure that your PA continues to be paid while you are shielding or self-isolating even if they take on other employment.

## **10. Self-isolation and Shielding throughout the pandemic**

### **Should I continue to pay my PA for their normal/average hours if they are unable to work for me because I am self-isolating?**

If you are self-isolating or shielding, your direct payment budget should allow you to continue to pay your PA their normal rate. This is in line with agreements which have been made to continue paying other social care providers who provide care and support under SDS Option 2 or 3, even if their services are not used during this period, and is recommended to ensure that workers are being paid and providers can remain in business throughout and beyond the pandemic.

Continuing to pay your PA during your self-isolation or shielding period ensures that your PA will be able to continue working for you after the pandemic period has ended.

## **How do I advise my PA if they suspect they have Coronavirus, or become unwell, or are living with someone who has symptoms?**

If your Personal Assistant is concerned that they may have Coronavirus they should call the [NHS 111 coronavirus service](#). If they need to self-isolate at home, they should not visit or provide care and support for you until it is safe to do so.

## **If my PA is self-isolating should I pay them sick pay?**

The contract you have with your Personal Assistant should specify the agreed rate and length of time they will receive sick pay from you. This will apply to normal sickness or when they are self-isolating. If they are shielding, they should be furloughed.

Your PA can get an isolation note for your records from [NHS Inform](#).

If other arrangements cannot be made, it may be necessary to put your contingency plan into place. This may mean getting help from family members and community organisations. If contingency arrangements cannot be put in place you should contact your Local Authority who can advise on your options at this time.

## **Is my PA entitled to statutory sick pay (SSP) if they are self-isolating for longer than their contracted allowance for sick pay?**

The Cabinet Secretary for Health and Sport recently announced the development of a [Scottish Government-funded scheme for enhanced sick pay for care workers](#).

The detail of this is still being developed and we will provide an update once it is confirmed.

## **What are the options for my PA if they are shielding or consider themselves to be at moderate risk of being clinically vulnerable?**

People in the high risk category for Coronavirus will have received a letter from their GP. This requires them to stay inside for 12 weeks.

People who are considered at moderate risk from Coronavirus will not have received a shielding letter but can opt to shield for the full 12 weeks if they feel this is the safest thing for them to do during the pandemic.

The list of conditions categorised as being high risk and moderate risk can be accessed [here](#).

Where workers are shielding or fall into the moderate risk categories, they should be paid through the UK's Job Retention Scheme (furlough).

## **How do I claim furlough for my PA?**

If your PA is unable to work due to Coronavirus because they are shielding or fall into the moderate risk category and you are directly employing them (i.e. you have a

contract and insurance for them) then you and or your payroll company should apply for furlough for them. If furlough for directly employed PAs is not agreed by the UK Government, the Scottish Government and COSLA have committed to pay the furlough equivalent for the time they are shielding through your social care budget.

The UK Government is responsible for the development and administration of the Furlough Scheme. For more information on furlough click [here](#).

### **What should I do if my PA refuses to isolate when they have suspected Coronavirus?**

If your PA is showing symptoms of Coronavirus, they should follow [NHS coronavirus guidance](#) and immediately self-isolate. Under no circumstances should they continue providing face to face care to you.

You should explain to them that it is necessary for them to self-isolate to prevent the spread of Coronavirus to you and other people living with you. You should explain that they should stay at home and you will pay them sick pay in accordance with their employment contract with you.

If you need help arranging replacement care contact your social work or healthcare team. You can also contact your local Independent Support organisation or the [Personal Assistants Network](#) or [Scottish Employers Personal Assistant Network](#) for additional advice and information.

### **If my PA is not in the shielding or in the moderate risk groups, what should I do if they do not want to support me during this period?**

If your PA does not fall into either the shielding or moderate risk groups but is concerned for their health and chooses not to work, then you as the employer could consider the use of annual or unpaid leave. PAs are key workers and if they are fit and able to work then they should be expected do so. However, disciplinary procedures should only be used as a last resort.

Your PA may still be able to provide support to you by carrying out tasks which do not involve entering your home such as shopping, picking up medication, telephoning, or videoconferencing with you.

[ACAS](#) gives employees and employers free, impartial advice on workplace rights, rules and best practice. They also offer training and help to resolve disputes.

You can also get advice and help from your local Independent Support organisation visit the [SDS Scotland](#) website and click 'find help' in the top right corner.

You may also wish to consult your insurance company for advice and support in relation to employment law. If you incur costs that are covered by Employment Insurance, you should make use of this otherwise you may risk invalidating your insurance.

[SPAEN](#) is an independent support organisation set up support employers of PAs. It is not necessary to join SPAEN to receive this type of support at this time. They can provide you with advice and support about what's expected of you and how the COVID-19 employment rules should be applied

### **Can I make my PA redundant during this period?**

You should be aware that making a PA redundant may have consequences for your support in the future. Please seek professional advice from your pay roll provider, indemnifier or Independent Support Organisation if you are considering doing this.

### **Will my PA be able to come back to me when I am ready?**

You should discuss with your PA that any arrangement made during self-isolation and shielding are temporary and there should be a clear, agreed procedure for the PA to resume their role when the situation ends.

### **Can I re-employ a PA who has already has been trained to support me?**

If you require temporary cover because your PA is ill or self-isolating, then you may set up a temporary contract to employ a PA that you have employed previously and who is familiar with your needs.

### **Will my payroll provider be able to help me with the employment of replacement or temporary staff and the development of a new temporary contract?**

Your payroll provider may be able to help you with the employment or replacement of temporary staff. If you already use a Direct Payment to pay for employment support you should continue to use this to cover any additional costs charged by payroll providers.

## **11. Access to PPE**

### **What PPE should my PA be using? What are the safety guidelines?**

As the employer you should refer to the [latest guidance](#) on what PPE is appropriate to wear and how it should be disposed of in accordance with your PA's duties to ensure that both you and your PA remain safe.

### **Are there any online training courses available to support my PA to use PPE correctly?**

NHS Education Scotland has published training resources on their [website](#)

Falkirk Council's SDS Team with SDS Forth Valley has detailed [advice and guidance](#) including an NHS training video on use of PPE.

### **How can I access PPE for my PA?**

If the routes you normally use to access PPE are unavailable, contact the Social Care PPE Support Centre on [0300 303 3020](tel:03003033020) and they can provide you with information about where to access PPE locally. This will usually be through a Hub that has been set up in your area.

Your PA can go to collect the PPE from the Hub, or a PPE supply can be delivered to you. They will need to have a letter from you saying that they are working for you as a PA, an example of which can be found [here](#).

### **Can I use my Direct Payment to pay for PPE?**

If your existing direct payment contains funding to purchase PPE for your PA, you should continue to use that funding to purchase PPE. If not, please speak to your Local Authority for advice on how to access and or fund PPE.

### **Can my PA refuse to provide support for me if I cannot supply them with the correct PPE?**

Lack of appropriate PPE could put you and your PA at risk. As an employer the law requires you to protect the safety of your PA and the safety of others.

### **If your Personal Assistant is self-employed are they required to provide their own PPE?**

Yes. They will need to contact the Social Care PPE Support Centre on [0300 303 3020](tel:03003033020) where they can access information on where they can obtain PPE locally.

<h2><b>12. Access to guidance, resources, training and support throughout the pandemic.</b></h2>
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### **Where can my PA go for advice and support for their wellbeing?**

All Health and Social Care staff including PAs can get access to wellbeing advice from the [National Wellbeing Hub](#) and [Turas Learn](#) websites.

The Scottish Government and NHS Scotland together with other partners have launched the [Clear Your Head website](#) to provide support and advice around mental health and wellbeing. There are resources, helpful tips and signposting to specialist support services.

Local community organisations offering practical help for wellbeing including mental health support, resilience training, mediation, mindfulness, debt advice, or emotional distress can also be accessed by your PA. For details of your nearest community supports, contact [SCVO](#).

### **Where can I access training as an employer?**

The Scottish Social Services Council (SSSC) in partnership with NHS Education Scotland has produced [guidance](#) which provides useful resources and links to support employers with training for temporary workers and volunteers.

[Open Learn](#) offers a variety of free online courses and information, with 900 free courses to select from.

[Skills Network](#) offer free online courses.

## **13. Access to testing**

### **Can my Personal Assistant get tested for COVID-19?**

If PAs have symptoms, they can get tested.

The NHS Inform website includes information on how Personal Care Assistants can arrange a test with a simple and easy to use [guide](#).

## **14. Cultural considerations during the pandemic**

During the pandemic there may be increased anxiety in black and minority ethnic (BME) communities about risk from Coronavirus, how to maintain culturally appropriate support and how to access culturally specific food.

Contact your social worker/social care assessor to discuss any concerns you may have if your cultural needs are not being met at this time.

[MECOPP](#) is Scotland's dedicated Minority Ethnic carer's organisation and provides a range of services including multi-lingual advice, information, advocacy and practical support.

### **Scottish Government and Social Work Scotland**

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