

# Health and Social Care Alliance Scotland

## Briefing on COVID-19 guidance for social care assessments and the ethical framework

5 May 2020



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### Introduction

This briefing has been prepared by the Health and Social Care Alliance Scotland (the ALLIANCE) in response to the Scottish Government publication “Changes to Social Care Assessments - Statutory guidance for local authorities on sections 16 and 17 of the Coronavirus Act 2020” (‘the Guidance’)<sup>1</sup> and the UK Government Department of Health and Social Care’s “Responding to COVID-19: the ethical framework for adult social care” (‘the DHC Ethical framework’)<sup>2</sup>. It is intended to offer constructive observations and recommendations on how to better respect, protect and fulfil the human rights of disabled people, people who live with long term conditions and unpaid carers in relation to social care during COVID-19.

Sections 16 and 17 of the Coronavirus Act 2020 (‘the 2020 Act’) “allow for an easing of health and social care assessment duties in relation to adult social care, carer support and children’s services in Scotland.”<sup>3</sup> These powers were “switched on” by the passing of the “Coronavirus Act 2020 (Commencement No. 1) (Scotland) Regulations 2020/121” on 5 April 2020<sup>4</sup>. The Guidance is intended to be read alongside the 2020 Act, and local authorities and integration authorities must have regard to its contents when exercising their functions. The Guidance indicates that all decisions should be underpinned by the values set out in the DHC Ethical framework and the values and principles enshrined in Getting it Right for Every Child (GIRFEC)<sup>5</sup>.

### Impact of COVID-19 and associated responses

During COVID-19, ALLIANCE members (including disabled people, people living with long term conditions, unpaid carers, and organisations that work for and with them) continue to express understandable concern about several issues, including:

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<sup>1</sup> <https://www.gov.scot/publications/coronavirus-covid-19-changes-social-care-assessments/>

<sup>2</sup> <https://www.gov.uk/government/publications/covid-19-ethical-framework-for-adult-social-care/responding-to-covid-19-the-ethical-framework-for-adult-social-care>

<sup>3</sup> <http://www.legislation.gov.uk/ukpga/2020/7/contents/enacted>

<sup>4</sup> <http://www.legislation.gov.uk/ssi/2020/121/made>

<sup>5</sup> <https://www.gov.scot/policies/girfec/principles-and-values/>

- The direct impact of the virus on the health, wellbeing and lives of disabled people and people living with long term conditions, many of whom are at most risk from COVID-19.
- The impact of changes to care and support for people living with long term conditions, disabled people and unpaid carers as a result of COVID-19.
- The longer term impact of COVID-19, including the increased number of Do Not Attempt Cardio-pulmonary Resuscitation forms completed and the likelihood of a greater number of people living with long term conditions.

It is widely recognised that COVID-19 will not affect everyone in society in the same way, and that the impact will be felt differently, for example by those with protected characteristics and differing socio-economic status<sup>6</sup>. As a result of the disproportionate impact of COVID-19 on specific groups of people, the ALLIANCE believes that all UK and Scottish Government guidance should be read alongside equalities and human rights law, principles and practice.

Disabled people and people living with long term conditions are affected particularly severely by COVID-19 and some responses to it, including reductions in care. According to research by Disability Equality Scotland, 49% of respondents had hospital or medical appointments cancelled, and 47% needed additional support with aspects of their daily life during COVID-19.<sup>7</sup> Research by Glasgow Disability Alliance indicates that 40% of disabled people are anxious about food, medication or money, 72% are worried about becoming “acutely isolated”, and 76% are unaware of or unable to access local support services.<sup>8</sup> Further research by Inclusion Scotland supports these concerns, finding that “stress, fear and anxiety are pervasive” for disabled people and people living with long term conditions during COVID-19. Inclusion Scotland also found that this was particularly acute for people with lived experience of mental health problems, disabled people living alone or with limited access to digital communication, and disabled people who struggle to understand and follow physical distancing rules (for example, people with learning disabilities).<sup>9</sup>

Emerging findings from research by the Scottish Commission for Learning Disability (SCLD) suggest that people with learning disabilities, their families and supporters feel confused by the public information regarding COVID-19 and have a great deal of anxiety regarding a loss of support and services. Respiratory infections are the commonest cause of death among people with learning disabilities,<sup>10</sup> and SCLD has raised concerns that they could be disproportionately affected by COVID-19.

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<sup>6</sup> [https://www.improvementservice.org.uk/\\_data/assets/pdf\\_file/0013/16402/Poverty-inequality-and-COVID19-briefing.pdf](https://www.improvementservice.org.uk/_data/assets/pdf_file/0013/16402/Poverty-inequality-and-COVID19-briefing.pdf)

<sup>7</sup> <http://yoursayondisability.scot/wp-content/uploads/2019/10/Impact-of-COVID-19-on-Disabled-People-March-2020.pdf>

<sup>8</sup> <https://www.bbc.co.uk/programmes/m000htky>; <https://www.bbc.co.uk/news/uk-scotland-52415302>

<sup>9</sup> Inclusion Scotland, ‘Coronavirus Update for Members of the Scottish Parliament’ (21 April 2020).

<sup>10</sup> <http://www.healthscotland.scot/media/1690/people-with-learning-disabilities-in-scotland.pdf>

The United Nations,<sup>11</sup> The Lancet,<sup>12</sup> and women's rights organisations like Engender<sup>13</sup> have noted the disproportionate impact COVID-19 will have on women and girls<sup>14</sup>, and differences in COVID-19 infection and mortality rates are being reported for women and men.<sup>15</sup> There are also indications that COVID-19 is having a unequal impact on Black and minority ethnic groups,<sup>16</sup> including amongst health and care professionals.<sup>17</sup>

Carers UK research has revealed the sometimes devastating psychological, financial and practical impact that COVID-19, and responses to it, are having on unpaid carers.<sup>18</sup> MECOPP has identified that some Black and minority ethnic unpaid carers may have additional challenges in accessing information and services, which can be worsened without a carer's assessment in place.

### Welcome measures

We welcome some aspects of the Guidance, including:

- Delegating budget decision-making so that workers can expedite the arrangement of care and support packages.
- Delegating partial assessments to other registered professionals including occupational therapists, physiotherapists and nurses.
- Greater use of strengths based self assessment tools to support people making their own decisions about social care support.

**If these powers are used and work well for people who access social care during COVID-19, we ask the Scottish Government and Health and Social Care Partnerships to learn from their application and explore how they can be kept in place in the longer term.**

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<sup>11</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/COVID19Guidance.aspx>

<sup>12</sup> [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)30823-0/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)30823-0/fulltext)

<sup>13</sup> <https://www.engender.org.uk/content/publications/Engender-Briefing---Women-and-COVID-19.pdf>

<sup>14</sup> <https://wbq.org.uk/analysis/reports/crises-collide-women-and-covid-19/>

<sup>15</sup> <https://www.bbc.com/future/article/20200409-why-covid-19-is-different-for-men-and-women>

<sup>16</sup> <https://www.icnarc.org/DataServices/Attachments/Download/76a7364b-4b76-ea11-9124-00505601089b>; <https://www.bbc.co.uk/news/uk-52219070>; <https://www.crer.scot/single-post/2020/04/20/Are-we-really-all-equal-in-the-eyes-of-COVID-19>; <https://www.ifs.org.uk/inequality/chapter/are-some-ethnic-groups-more-vulnerable-to-covid-19-than-others/>

<sup>17</sup> <https://www.theguardian.com/society/2020/apr/10/uk-coronavirus-deaths-bame-doctors-bma>; <https://www.crer.scot/single-post/2020/04/20/Are-we-really-all-equal-in-the-eyes-of-COVID-19>.

<sup>18</sup> [http://www.carersuk.org/images/News\\_and\\_campaigns/Behind\\_Closed\\_Doors\\_2020/Caring\\_behind\\_closed\\_doors\\_April20\\_pages\\_web\\_final.pdf](http://www.carersuk.org/images/News_and_campaigns/Behind_Closed_Doors_2020/Caring_behind_closed_doors_April20_pages_web_final.pdf)

## Equalities and human rights

Numerous national and international agencies have reiterated the importance of integrating equalities and human rights based approaches into responses to COVID-19. The ALLIANCE welcomes the Cabinet Secretary's statement that "[t]hroughout this difficult time, it is critical that social care support is maintained to ensure the safety, dignity and human rights of people who already receive that support"<sup>19</sup>, and the Scottish Government's wider commitment to "protect those most at risk and protect human rights" in the "COVID-19 Framework for Decision-Making".<sup>20</sup>

As Amnesty International note: "All governments and other actors involved in and affected by the COVID-19 outbreak must ensure that international human rights law and standards are at the centre of all responses to COVID-19, in order to best protect public health and support people who are most at risk of adverse impacts." They add that, "full respect for human rights is essential at all stages of the crisis and should not be seen as a luxury that can only be afforded once the threat for public health has been minimized."<sup>21</sup>

However, despite the direct impact that the Guidance will have on people living with long term conditions, disabled people and unpaid carers, there is an overall lack of detail on equalities and human rights.

There are some welcome signs locally. For example, the South Ayrshire Health and Social Care Partnership has published a set of principles that they will use in determining how to adapt services as a result of COVID-19, prioritising: "Protection of our most vulnerable people; Ensuring a rights based approach to services; Promoting choice where this is safe and achievable; Consistency of care and Ensuring continuation of safe services with the available resource."<sup>22</sup>

Taking a human rights based approach (HRBA) can help difficult decision-making when there are tensions between risks and rights or between demand and available resources. A HRBA provides an objective process underpinned by legislation and principles like transparency, equality and accountability, and can be delivered with practical tools like Equalities and Human Rights Impact Assessments,<sup>23</sup> inclusive communications, and human rights budgeting.<sup>24</sup>

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<sup>19</sup> <https://www.gov.scot/publications/coronavirus-covid-19-update-health-secretary-statement-parliament-28-april-2020/>

<sup>20</sup> <https://www.gov.scot/publications/coronavirus-covid-19-framework-decision-making/pages/4/>

<sup>21</sup> <https://www.amnesty.org/download/Documents/POL3019672020ENGLISH.PDF>

<sup>22</sup> <https://beta.south-ayrshire.gov.uk/article/19507/Health-and-Social-Care>

<sup>23</sup> <http://eqhria.scottishhumanrights.com/>

<sup>24</sup> <https://www.scottishhumanrights.com/economic-social-cultural-rights/human-rights-budget-work/>

**The ALLIANCE recommends greater detail on equalities and human rights in the Guidance and Health and Social Care Partnership plans at the local level. They should cite relevant national and international equalities and human rights law, and core principles like non-discrimination, maximisation of available resources and minimum core obligations. They should also clearly articulate the action required to operationalise the law and principles.**

### **Defining terminology and monitoring use of the 2020 Act social care assessment provisions**

The Guidance and the 2020 Act both use a range of different terminology to provide a baseline for using the powers to relax social care assessments. These include:

- “would not be practical”.
- “would cause unnecessary delay in providing community care services to any person”.
- “in order to provide services and support for those most in urgent need”.
- “in extremis”.

We are concerned that no detail is provided on the practical meaning of these terms, nor when people can reasonably expect the powers to be used at the local level, and the potential for misunderstanding if some areas use the powers and others do not.

While some regional variations may be required, unless decisions are well communicated it could be very confusing for the millions of people who access social care across Scotland, including those whose service provision straddles more than one Health and Social Care Partnership area. People already reported confusion and dissatisfaction with the ‘postcode lottery’ of differing regional rules and services that existed pre-COVID-19, and disjointed application of the Guidance could exacerbate this issue.

**The ALLIANCE recommends clearer definitions and guidance on each of baseline terms. We also recommend that the Scottish Government and Health and Social Care Partnerships work with people who access social care and other stakeholders to ensure coordinated and well communicated decision-making when the emergency provisions are used. There should also be regular, ongoing monitoring and accessible reporting, to ensure accountability for using the emergency powers across Scotland.**

### **Eligibility criteria and social care cuts**

The Guidance indicates that the powers under the 2020 Act only relax assessment duties and not eligibility criteria or existing social care and carer support. We are, however, concerned that some areas may have increased their eligibility criteria and

that social care packages have already been reduced and/or stopped. For example, Dumfries and Galloway Health and Social Care Partnership have stated that “care will be provided at the minimum level required to keep people safe”<sup>25</sup> and Glasgow Health and Social Care Partnership has stated that “all services continue to focus on urgent and priority care needs”.<sup>26</sup> The BBC reports that the number of social care clients fell by over 2,000 in the period January to April 2020.<sup>27</sup>

The impact of any cuts to social care and rise in eligibility criteria are felt directly in the short term by people with long term conditions, disabled people and unpaid carers, and in the long term by Health and Social Care Partnerships and the NHS. This should be avoided at all costs if we are to prevent people losing their right to independent living. The ALLIANCE welcomes the announcement by the Cabinet Secretary that it is not acceptable to reduce care packages during the COVID-19 pandemic.<sup>28</sup> **We recommend greater clarity from the Scottish Government and Health and Social Care Partnerships on why social care packages are being reduced and removed if this is counter to the Guidance and additional resources are available to continue support.**

### Unpaid carers

We are concerned at the implication that the duty to provide support to carers will be amended to no longer refer to “identified needs”, in order to enable the carer to provide or continue to provide care.<sup>29</sup> During COVID-19, unpaid carers still require recognition of their caring responsibilities and support to continue to carry them out. This need is even more pressing with many carers moving to provide 24/7 care in response to COVID-19, because:

- External services such as day care and short breaks have been withdrawn to comply with physical distancing guidance.
- Formal care services in the home have been withdrawn.
- The household is isolating to protect the cared-for person. This includes choosing not to have care workers coming into the home.
- Parents with disabled children are supporting both the education and care of their children.

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<sup>25</sup> <https://supportdg.dumgal.gov.uk/article/20810/Care-at-Home-services>

<sup>26</sup> [https://glasgowcity.hscp.scot/sites/default/files/publications/Glasgow%20City%20HSCP%20COVID-19%20Briefing%20-%20Staff%20-%203%20April%202020\\_0.pdf](https://glasgowcity.hscp.scot/sites/default/files/publications/Glasgow%20City%20HSCP%20COVID-19%20Briefing%20-%20Staff%20-%203%20April%202020_0.pdf)

<sup>27</sup> <https://www.bbc.co.uk/news/uk-scotland-52415302>

<sup>28</sup> <https://www.gov.scot/publications/coronavirus-covid-19-update-health-secretary-statement-parliament-28-april-2020/>

<sup>29</sup> <https://www.gov.scot/publications/coronavirus-covid-19-changes-social-care-assessments/>, page 8.

**The Scottish Government should closely consider (and consult unpaid carers about) the implications of using the powers of the 2020 Act on carer support and the impact it will have on unpaid carers who continue to provide support during the pandemic.**

The Guidance also suggests statutory agencies should make “sure they (unpaid carers) are aware of local sources of emotional and other support for unpaid carers, such as local carer centre support, and how it can be accessed during the outbreak period.”

Health and Social Care Partnerships may use blanket communications to share general information, but **the ALLIANCE recommends individualised support for unpaid carers, including check-ins and direct discussions with relevant professionals about rights and needs.**

If unpaid carers are unable to continue their caring role – whether because they have reached breaking point, their physical health is impacted, or they have become ill – **we believe that the local authority must step in to provide alternative care. Unpaid carers should still be able to access a break from their caring role**, even if it takes an alternative form, as identified by Shared Care Scotland.<sup>30</sup> Alongside this, **packages of unpaid carer support, including direct payments, should be applied more flexibly** to enable people to purchase alternative types of support.

### Care charging

We are concerned that the Guidance does not reflect the financial impact of COVID-19 on people who use social care and their families. **The ALLIANCE believes that the Scottish Government should immediately suspend charges for people who use social care (including collection of arrears and debt for previous care charges)**, noting:

- The human rights issues of charging people to enjoy their right to independent living.
- The additional financial pressure on individual and household incomes, and the administrative burden for Health and Social Care Partnerships of accurately assessing/applying them during a crisis.
- In some areas, invoices are being issued for service user contributions even where a service has been withdrawn or a Self-directed Support budget has not been able to be used.

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<sup>30</sup> <https://www.sharedcarescotland.org.uk/resources/short-breaks-for-strange-times/>

**The ALLIANCE recommends a review of social care charges once the COVID-19 crisis has passed, with a view to moving towards free social care.**

If the 2020 Act assessment powers are used, it needs to be clearly communicated to people that if they have only had a partial assessment, they will not be charged for services delivered as a result of this. This should be part of standard and accessible communications with individuals during this time.

### **Charging for permanent residential care**

We are concerned to note that Sections 17(7) to (9) of the 2020 Act “allows retrospective charging for individuals who become permanent care home residents without a full assessment and who later have a full assessment.” Given that in these circumstances there will be people institutionalised during COVID-19 without a full assessment and without inclusion in decision-making, **the ALLIANCE recommends that retroactive permanent care home charging powers are not used to their full effect. If they are, a thorough financial assessment must take place, which takes into account the full circumstances of the individual during the pandemic.** The suspension of charging is particularly important in situations where disabled people and/or their Guardians’ choices are not taken into account when altering care arrangements, but where those individuals may then still be held accountable for the cost of that care.

### **Temporary care plans/partial assessments**

We welcome that the duty to support individuals remains, despite a move to temporary care plans and partial assessments. However, we are concerned about reports that in some areas assessments that were underway when the COVID-19 crisis hit have been stopped, even before the 2020 Act powers came into force.

**The ALLIANCE believes that detailed information and transparency is required on how temporary care plans and partial assessments should work and are working in practice.** This should also specify the timescales for review of temporary care plans and partial assessments, issues which are currently undefined in the Guidance. Greater clarity should be given to individuals on when they should expect temporary and partial measures to be reviewed, and their right to request a review.

### **Remote social care assessments**

The ALLIANCE recently responded to the GMC’s consultation on principles for remote consultations and prescribing<sup>31</sup> and many of the principles we pointed to in

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<sup>31</sup> <https://www.alliance-scotland.org.uk/blog/news/guidance-for-remote-consultations-and-prescribing/>

that response should be replicated in the Guidance. For instance, the following risks need to be mitigated to carry out a remote assessment:

- Technical difficulties and poor connections could lead to information being misunderstood or wrong assumptions made. Video compression, for example, can have an impact on the interpretation of facial expressions,<sup>32</sup> which could lead to a misunderstanding about the nature of advice.
- That appropriate assessment cannot be completed remotely but is completed in any case in order to save time.
- Not all disabled people or people living with long term conditions can access technology effectively. Research by Glasgow Disability Alliance indicates that 37% of disabled people do not have home broadband, or lack the confidence or skills to use the Internet to seek information about support.<sup>33</sup>

**In order to mitigate some of these risks, the ALLIANCE recommends that the following action should be taken on remote social care assessments:**

- **Ensure there is justification to carry out an assessment remotely, including discussing the feasibility of seeing another assessor who can safely carry out a face-to-face consultation.**
- **Ensure arrangements are in place to guarantee follow up and continuing care.**
- **Ensure a clear record is made of the discussion.**
- **Ensure that the person's rights are upheld by providing sufficient information to make an informed choice.**
- **If the individual being assessed subsequently sends in additional information pertinent to the assessment via another means (e.g. email), it should be acknowledged and included in the assessment process.**
- **People should be made aware of external sources of support who can attend any discussion alongside them, for example independent advocacy and other organisations funded by the Support in the Right Direction fund<sup>34</sup>.**

## **Guardians and Power of Attorney (POA)**

The Guidance indicates that where there are capacity issues, liaising with a Guardian or person with power of attorney (POA) “may be necessary”. We are concerned that this is presented as an option (“may”), and that not doing so could put the supported person at risk of harm. **Liaising with a Guardian or other person with a POA should be an integral part of any discussion; this element of the Guidance**

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<sup>32</sup> <https://bmjopen.bmj.com/content/6/1/e009388>

<sup>33</sup> <https://www.bbc.co.uk/programmes/m000htky>; <https://www.bbc.co.uk/news/uk-scotland-52415302>

<sup>34</sup> <https://www.inspiringscotland.org.uk/news/new-support-right-direction-2021-grants/>

**should be amended to reflect the importance of including a POA during the pandemic.** Direct communication with a Guardian or other person with a POA can be sought remotely if necessary. **If these powers are used, it is essential that the rationale for making a decision without taking the views of a Guardian or person with POA into account is recorded and transparent.**

### **Accountability and the Care Inspectorate**

We are disappointed at the lack of detail in the Guidance on the independent scrutiny role of the Care Inspectorate during the pandemic, but understand that this may be because the Care Inspectorate has shifted its priorities. Given the wide range of issues affecting people's rights raised within the Guidance, **the ALLIANCE recommends more detail on how local authorities, Health and Social Care Partnerships and social care providers will be accountable for the decisions they make during this period.** We would also welcome more information as to the role the Care Inspectorate will have to play in ensuring, where possible, that care follows the National Standards to which they are duty bound.

### **Communications**

**More detail should be outlined in the Guidance on specific communications work required with people who access support and unpaid carers, and this should not solely focus on blanket communications to the whole population.**

In particular, people who do not have access to the Internet and digital communication should be considered and provided with relevant updates on social care provision in alternative and accessible formats. Information in accessible formats like Easy Read and BSL should be issued at the same time as main documentation.

The language in the Guidance implies that messaging will be communicated to/at individuals, rather than 'with' them. We are concerned that this does not support the principles of co-production, choice and control that underpin the Social Care (Self-directed Support) (Scotland) Act 2013.

### **Self-directed Support (SDS)**

Self-directed Support (SDS) is still the primary means by which social care is delivered in Scotland. Principles under section 1 of the Social Care (Self-directed Support) (Scotland) Act 2013 ('the 2013 Act')<sup>35</sup> can be disregarded if the 2020 Act emergency provisions are used. These principles empower people to have as much

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<sup>35</sup> <http://www.legislation.gov.uk/asp/2013/1/contents/enacted>

involvement as they wish in assessments and service provision, with independent support if required.

Flexibility is especially important during COVID-19; for example, if people are shielding and family members or friends provide care instead of care workers, people should be able to use SDS Option 1 (direct payments) to pay that member of the family/household in lieu of a care worker, and the support money should be diverted as such and not restricted or limited. Health and Social Care Partnerships should trust that individuals know what will meet their personal outcomes during COVID-19.

**Even with temporary care plans and partial assessments, the ALLIANCE believes that people should be offered a choice over how care is arranged and be able to alter their care if required. All efforts should be made to respect people's rights and ensure their active involvement in meaningful decision-making.**

We are concerned about reports of care providers who are changing and even stopping people's care without consultation with either those who access services or social work departments. This is causing serious problems for people, especially those on SDS Option 3 (budget and support managed and provided by the local authority), who are left without any care provision until they can contact social work and arrange alternative care.

**The ALLIANCE recommends regular, ongoing contact with social work professionals and others capable of carrying out partial assessments, using the communication methods that work best for the individual.**

We are extremely concerned by reports in some areas that people are being told if they do not employ care workers due to COVID-19 shielding they will lose that element of their package indefinitely. Such decisions are likely to cause significant strain on people and unpaid carers, as well as incur longer term negative impacts on social care and health services. **Temporary changes as a result of COVID-19 should not result in reductions in care packages in the longer term.**

**Greater clarity is also needed on how personal assistants (PAs) will be supported, for example through implementation of the national measures on furlough<sup>36</sup>.** PAs who are not attached to larger organisations may experience difficulties – as highlighted by the Scottish Personal Assistant Employers Network

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<sup>36</sup> <https://www.gov.uk/government/news/further-details-of-coronavirus-job-retention-scheme-announced>

(SPAEN)<sup>37</sup> – which in turn can cause issues for disabled people, people living with long term conditions and unpaid carers.

We are aware of circumstances where individuals have chosen not to have a PA provide their usual support to minimise the number of people entering the household, with family members often substituting. **We believe that funding should continue for PAs in these situations, assuming that furlough does not apply, alongside additional funding for the family member. This models the practice currently being adopted by ILF Scotland<sup>38</sup>.**

### When section 16 is switched off

We welcome the inclusion of a section on “switching off” section 16.

**The ALLIANCE believes, however, that more guidance is required for social workers and social care staff on the individual discussions that will be required with people who use social care about the implications of “reopening” services, rather than generic ‘all population’ information.** At the very least, guidance should detail the direct impact on particular services, the timescale for review of partial assessments and any consequences for care charging.

### The UK Government Department for Health and Care’s Ethical Framework for Adult Social Care (‘DHC Ethical framework’)

The Guidance indicates that all decisions should be underpinned by the values set out in the DHC Ethical framework. The sentiments set out in the DHC Ethical framework are welcome, and the principles included within it admirable, however the ALLIANCE is concerned that there is an overall lack of detail on the practical realisation of the range of equalities and human rights issues at play during this pandemic. Our reading of the document is that the ethics are drawn from a “needs based” rather than “rights based” approach.

We are particularly concerned at the suggestion that those making decisions should “strive to support people to get what they are entitled to, subject to available resources, ensuring that there is a fair judgement and clear justification for any decisions made on prioritisation”. This appears to suggest that available resources trump the rights of people who access support and services.

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<sup>37</sup> <https://www.spaen.co.uk/news/charity-chief-calls-for-fundamental-review-of-how-pa-employers-are-supported/>

<sup>38</sup> <https://ilf.scot/ilf-scotland-coronavirus-update-2/coronavirus-ilf-scotland-policies/>

**As with the Guidance, the ALLIANCE recommends greater detail in the DHC Ethical framework on equalities and human rights, including laws, principles, and their practical application.**

## Contact

If you would like to discuss any of the topics raised within this briefing, or to request any further information, please contact:

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## About the ALLIANCE

The Health and Social Care Alliance Scotland (the ALLIANCE) is the national third sector intermediary for a range of health and social care organisations. We have a growing membership of over 2,900 national and local third sector organisations, associates in the statutory and private sectors and individuals. Many NHS Boards, Health and Social Care Partnerships and Medical Practices are associate members.

Our vision is for a Scotland where people of all ages who are disabled or living with long term conditions, and unpaid carers, have a strong voice and enjoy their right to live well, as equal and active citizens, free from discrimination, with support and services that put them at the centre.

The ALLIANCE has three core aims; we seek to:

- Ensure people are at the centre, that their voices, expertise and rights drive policy and sit at the heart of design, delivery and improvement of support and services.
- Support transformational change, towards approaches that work with individual and community assets, helping people to stay well, supporting human rights, self management, co-production and independent living.
- Champion and support the third sector as a vital strategic and delivery partner and foster better cross-sector understanding and partnership.