

Accountability and the Implementation of Self-Directed Support:

Complaints, redress, and human
rights principles in practice

October 2021

What was the research about?

This research explored complaints processes relating to self-directed support in Scotland. The aim of the research was to help understand complaints processes within local authorities, routes to potential legal challenge, and barriers to complaints.

Why did we do the research?

The Social Care (Self-Directed Support)(Scotland) Act 2013 gives individuals choice and control over the delivery of their care. It is grounded in human rights principles derived from the United Nations Convention on the Rights of Persons with Disabilities 2006.

To support implementation of self-directed support, and to contribute to existing evidence of experiences of implementation, the research aimed to gain insight into the apparent lack of legal challenges relating to self-directed support since the introduction of the 2013 legislation.

Who did the research?

The research was carried out in 2020 by the Centre for the Study of Human Rights Law and the Law Clinic at the University of Strathclyde in partnership with In Control Scotland. The research was supervised by Strathclyde academics and led by Law School postgraduate students and student members of the University of Strathclyde Law Clinic.

Who participated in the research?

Law centre solicitors, and advocacy and advice agency workers in four local authority areas in the Scottish central belt contributed to the research.

What did people tell us?

“My understanding is that it’s rare for people to get a really good outcome from it. There were as many positive responses as there were negative ones, but even the positive ones might have been grudging, very slight improvements rather than actually being what people were looking for [...].”

Advocacy Organisation Staff Member

“[...] And when all the barriers keep getting put up, ultimately, I think a lot of people end up accepting, well I’m just going to have to take what I can get, which, as a solicitor, that shouldn’t be what clients end up having to do but [...] they almost don’t seem to have any fight left by the time you get through the initial steps of figuring out what’s going on, what the budget is, what’s allocated, what the problem is, and then explaining to them what steps can be looked at, they are just are like, it’s not worth it anymore.”

Law Centre Staff Member

““[...] the feeling from service users that we’re made aware of is that it isn’t about their human rights, it isn’t about their individual needs as a disabled person or a person with a long term condition, it’s kind of couched in terms of, you know, this is what the local authority’s able to offer because of A, B, C bureaucratic restrictions, budget limitations, etc [...].”

Advocacy Organisation Staff Member

What did the research find?

There were three main findings:

Processes



It was generally clear how to make a complaint, and complaints processes can lead to positive outcomes for people. However the processes themselves are problematic: inconsistent, unpredictable and dependent on various factors (geographical location, the person receiving the complaint, and levels of individual awareness).

Legal Support



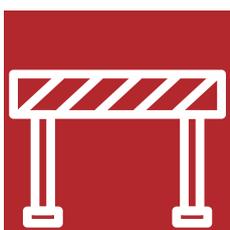
There is some demand for expertise from within the free legal advice sector, but few solicitors specialise in self-directed support, and few advocacy and advice organisations make referrals. Without this support, the prospect of judicially challenging decisions is extremely low.

Human Rights



In addition there is a lack of detailed knowledge of human rights amongst a range of stakeholders, and the relevant legislation that promotes and protects them, although there was some suggestion that framing complaints around human rights appeared to improve outcomes.

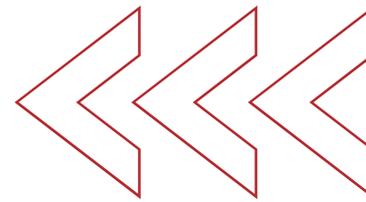
Barriers



These findings show that individuals face barriers at every stage. These include:

- lack of awareness about complaints options
- the individual burden of pursuing complaints
- fear of negative impacts on relationships with local authority staff
- limited specialist legal advice and legal aid funding
- and the long timescales involved with judicial challenge, as well as local authority practice of settling complaints

Read More



To read the full version of this research visit
www.in-controlscotland.org

Get in Touch



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