

Self-Directed Support Appeal Process

Childrens Services, Care & learning

Version 1

0/01/2019

Control Sheet

<u>Date</u>	<u>Version</u>	<u>Amendments Made By</u>	<u>Amendment Made To</u>	<u>Amendments Made</u>
30/01/2019	1	G. MacLachlan	Total Review	

Self-Directed Support – Children and Families

1. Introduction

Applications for Self-Directed Support are made by Service Users who meet the criteria for assessment, a proposed support plan is then agreed with the partners to a Child's Plan. It should be noted that any disagreements about the Child's Plan, and the contents of any associated support plan, are not the subject matter of this Appeals Procedure. Disagreements between the family and Highland Council regarding the Child's Plan content, support plan content or the process regarding the administration of Self Directed Support should be resolved as per further discussion with the family or if this proves to be unsuccessful, by Highland Council's complaint procedure rather than this appeal procedure. This Appeal Procedure sets out the Highland Council Appeal Procedure for challenges by, or on behalf of, Service Users in relation to the approval of the associated support package and how that relates to the monies it is proposed should be awarded as Self Directed Support.

The Highland Council approves support packages on the following basis:-

- For those packages less than £8000 pa the Practice Lead's recommendation to approve or not is authorised by the Children's Service Manager.
- For those packages over £8000 pa the decision to approve or not is made by the SDS Panel.

In both cases the Practice Lead is responsible for writing to the family advising of the decision to approve or not a support plan either in whole or in part and the reasons for not approving within 7 days of a decision being reached. Decisions made by the Children's Service Manager or the SDS Panel bind the Highland Council and will be put into immediate effect unless either:-

The support plan Decision Maker, being either the Children's Service Manager or the SDS Panel, advise that there should be a delay in implementing the package OR

The Service User, or someone on his or her behalf, indicates that they intend to appeal the decision made.

In those latter cases the following appeal process will apply.

2. SDS Appeal Process

1 Lodging an appeal

- a) An appeal can be lodged by the Service User within 28 days from the date of notification of the decision concerning the support plan. For the purposes of this procedure the Service User is referred to as the Appellant. The Highland Council is referred to as the Authority.
- b) Any appeal should be in writing and state what is being appealed and why.
- c) An appeal should be lodged in writing to the SDS appeal decision maker, Self-Directed Support, Care & Learning, Highland Council, Glenurquhart Road, Inverness, IV3 5NX or by email to SDS.Children@highland.gov.uk.
- d) Once an appeal has been lodged and acknowledged the Appellant must be given sufficient time to prepare their appeal. The SDS appeal decision maker will agree a convenient time for the hearing of the Appeal with the Appellant. However in all cases, an appeal must be heard within 3 months of the notification of the decision to approve or not to approve a support plan.
- e) If after 3 months no appeal hearing has been arranged and the SDS appeal decision maker considers this “failure to arrange” is due to the appellant not engaging with the process then the SDS appeal decision maker should write to the appellant advising that original decision will now be initiated and no further appeal can be raised in this regard.
- f) The Appellant can choose to attend the appeal in person or has the option to be supported to present their case or to submit relevant evidence for consideration without attending.
- g) All appeals are held in private. The SDS appeal decision maker has the option to be supported throughout the appeal process by a representative of Highland Council Legal Services and any other person the decision maker considers being appropriate. All those in attendance with the decision maker will be notified to the appellant in advance of the hearing.
- h) All written evidence from both the Appellant and the Authority should be submitted to the SDS appeal decision maker at least 10 days prior to the appeal date.

- i) The SDS appeal decision maker should ensure that all submissions are shared with appellant and whoever is presenting the case for the Authority 7 days prior to appeal hearing date.

3. The Appeal Hearing and Decision

- a) If the decision not to approve a package was taken by the SDS panel then the chair of the SDS panel will represent the Authority at the SDS Appeal Hearing.
- b) If the decision not to approve was taken by the Children's Service Manager then the Children's Service Manager will represent the Authority at the SDS Appeal Hearing.
- c) The Authority representative will present the case first at the appeal hearing. Both the appellant and the SDS Appeal decision maker will have opportunity to ask questions of the Authority presentation.
- d) The appellant should then present their case. Both the Authority representative and the SDS Appeal decision maker will have opportunity to ask questions of the appellant's presentation.
- e) Once all evidence has been presented the SDS appeal decision maker will advise the Authority representative and the appellant if further deliberation is required or if an immediate decision can be made.
- f) In either case, the SDS appeal decision maker should advise the appellant that formal notification of the appeal hearing decision will be sent within 7 days of appeal hearing date and that the decision will be put into effect immediately.

4. What if appellant does not agree with appeal hearing decision?

The decision of the SDS Appeal decision maker represents the final decision by the Authority and that decision will be put into effect immediately. There is no further appeals process and service users are advised to take independent legal advice in relation to any challenge of a decision made by the SDS Appeal decision maker. Such a challenge would generally be by way of Judicial Review.

In the event that a Service User has an issue with the conduct of the SDS appeal decision maker, rather than the decision reached, then the Service User should make use of the Council Complaints Policy.

https://www.highland.gov.uk/info/670/consultations_complaints_and_compliments/368/make_a_complaint

5. SDS Appeal process flowchart

