Views on the Bill as a whole

1. Are you generally in favour of the Bill and its provisions?

I am in general agreement with the Bill, and its provisions.

However, it seems to be akin to free personal care for the elderly in attempting to do something without regard to the potential costs. One cannot legislate for change, but expect no financial resources to be required to implement the changes.

2. What are your views on the principles proposed?

The three principles of involvement, informed choice and collaboration are a good start.

However, there is a significant risk that the organisation i.e. Local Authority or NHS Board can pay regard to these principles, and yet the individual will still see no difference in the service or the outcomes.

It will be very important that local leadership and management accept that the role of the individual citizen is vital, and that collaboration with individuals, families, communities and third sector organisations could bring about real change.

3. What are your views on the four options for self-directed support proposed in the Bill?

It is good to see the options - “direct payment”; “direct available resource”; “mix of approaches”; or, “local authority arranged support”.

All of these options to the individual will potentially cost the Organisations more money to implement and deliver than existing arrangements.

Local Authorities and NHS Boards may therefore not be happy to implement any changes, as they are to receive no resources.

My understanding is there are currently < 4,000 Personalised Budgets and Payments in operation in Scotland, so take up appears relatively slow.

The significant barrier is that (as far as I know), no system or process currently exists in Scotland’s public sector to enable them to happen.

The status quo is based on Organisation-centric processes.
Individuals will only receive personalised care when they have the means to engage with it, and to enable it to happen. Individuals cannot currently express their preference, choice or options in a way that is convenient, trusted, is with their consent and is under their control.

EU Draft Legislation is placing significant additional pressure on existing Customer Relationship Management, and Organisation-centric ICT architectures.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)


Article 18 introduces the data subject's right to data portability, i.e. to transfer data from one electronic processing system to and into another, without being prevented from doing so by the controller. As a precondition and in order to further improve access of individuals to their personal data, it provides the right to obtain from the controller those data in a structured and commonly used electronic format.

With this impending EU legislation on privacy, consent and data, Scotland should take a lead and use this legislation to state:

“In order for organisations to obtain a single view of the customer / individual / patient / citizen, information must come from the individual. The individual is the only point of integration. “

Could we change the model, turn it on its head and let the Individual express their choice, preference and base this on their consent, and their volunteered personal information?

Then the individual will be empowered and will have the digital means to participate in digital public services on their terms.

Could there be small, agile tests using these new models for each of the proposed new methods to see what they cost? These would inform the Financial Memorandum at 9 below.

4. Do you have any comment on the proposal that the self-directed support options should be made available to children and their families, together with the proposal that the degree of control a child may have over the process should vary with age?
I believe that the Self Directed Support options should be made available to children, and that from age 16 the child should have a degree of control with total control at age 18

5. Are you satisfied with the provisions relating to the provision of information and advice, together with those concerning the support that should be offered to those who may have difficulty in making an informed decision?

I am generally satisfied, although I wonder whether there should be Universality of provision of information and advice written once for all Scotland, or whether each local authority should be allowed to choose.

Should there be a basic minimum for provision of information and advice? Should it not be common across all Scotland? Are we not asked to believe in “shared services” in an age of austerity, where these make sense?

In all cases, the choice of the individual must come first, and they be allowed to choose their own support.

Where individuals have difficulty in making an informed decision, then additional Finance must be provided to enable their family or carer(s) to assist. This is a reason why I think that the Bill must trigger financial consequences (see 9. below)

**Direct payments**

6. Are you satisfied that the method for modernising direct payments in the Bill will result in the change that the Government seeks?

No.

There is no obvious means whereby the aspirations and outcomes in the Bill can be delivered if there are no Financial resources.

Local Authorities and NHS and other statutory agencies will need to enable much more patient-centric and individual-centric processes, in order for the Bill to bring about the changes and for the Government to enable individuals to see change.

This will require e.g. systems thinking, co-design, individuals to participate in service design and a program in itself.

These system and process changes will necessarily cost something.

The separate point about Section 13 giving Ministers powers to direct – surely this will generate costs, if used.
7. Do you have any views on the provisions relating to adult carers?

No comment.

8. Do you agree with the approach taken by the Scottish Government not to place restrictions on who may be employed by an individual through the proposals in the Bill?

Yes, I agree with this approach.

Financial Memorandum

9. Do you have any views on the assumptions and calculations contained in the Financial Memorandum?

It cannot be right, or correct, to assume cost-neutrality in the short or the long term. The Committee should pay heed to Care for the Elderly, and the principles learnt there. It is not possible to legislate for change, and expect a free delivery service.

To do so denies the fact that processes will have to change for individuals to play a much greater role. This will inevitably have costs and benefits for Local Authorities,

If the assumption is cost-neutrality, then the Bill will not deliver.

If the effect is cost-neutral, the Bill will fail. It will either be more or less expensive to deliver the desired Outcomes. Any other conclusion seems to be avoiding difficult discussions.

Effects on equal opportunities, human rights, island communities and sustainable development

10. Are you satisfied in the assessments that have taken place in regard to these matters and in the conclusions reached by the Scottish Government?

No comment

Other matters

11. Do you have any comments on any other provisions contained in the Bill that you wish to raise with the Committee?

The provisions of the Bill do not currently appear to envisage any real change on the ground. If they did, then there would be costs, and financial resources to enable change to happen.
If there is no money to make change, then the Bill should seek to outline what outcomes are expected to flow, so that the purposes of the legislation are achieved.

However, this would appear to fail the desire of the Government – that the legislation will enable greater roles and responsibilities for the individual with respect to Self Directed Support.

I believe that the forthcoming EU Regulation ( incl. Article 18 ) supports the views that the role of the individual should be given much greater consideration, in a true and honest sense, and that the Self Directed Support system be re-built in small, agile ways using systems thinking, service design and co-production techniques.

Only then will individual citizens be truly empowered and have the digital means to participate in digital public services.

Alex Stobart (individual)
13 April 2012