Social Care (Self-directive Support) (Scotland) Bill

Independent Advocacy Perth & Kinross

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

The Bill should include specific reference to access to independent advocacy for people offered Self Directed Support. An effective Independent Advocate will work to ensure that an individual’s rights are upheld, that they make informed decisions, that they understand the consequences of their decisions and that they are fully involved in decisions that affect them.

2. What are your views on the principles proposed?

The principles need to be more clearly defined making it clear that under Self-directed Support: the person’s views will be taken fully into account, their rights will be upheld, any support provided will be informed by what is most important to the person, and that the person will be empowered to have control over their life and the support and care they receive. Independent advocacy is an integral part of this process and therefore a right of access to independent advocacy should be included as a principle in the Bill. We believe that Principles should be amended to reflect the Millan Principles\(^1\) of non-discrimination, equality, respect for diversity, informal care, participation, respect for carers, least restrictive alternative, child welfare, reciprocity and benefit, upon which the Mental Health (Care and Treatment) (Scotland) Act 2003 is based.

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

There needs to be greater clarity around the meanings and potential implications of the four choices.

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?

All individuals covered by the Mental Health (Care and Treatment) (Scotland) Act 2003, regardless of their age, have a right to access Independent Advocacy, and therefore many children and young people affected by this Bill will already have a right of access to Independent Advocacy. Independent Advocacy can also be an important source of support for individuals who are not covered by any current legislation. We believe that children and young people should always have their views and wishes fully considered when establishing how their support is managed and must be supported to do so. This should include access to Independent Advocacy (the importance of

\(^1\) [http://www.scie-socialcareonline.org.uk/repository/fulltext/mharev.pdf](http://www.scie-socialcareonline.org.uk/repository/fulltext/mharev.pdf)
Independent Advocacy to informed decision making is covered in detail under question 5). Any child commenting on their options under SDS should be referred to Independent Advocacy. The variation of degree of control suggested should not simply be dependent on age but should take account of the level of maturity and understanding of the individual child. Account should also be taken of the fact that most children will be able to understand and express some level of choice which should also be considered.

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?

In order to ensure that people's views and wishes are taken fully into account the Bill should include specific provision of independent advocacy as distinct and separate from provision of information and advice. It will also be necessary to ensure a clear understanding of what Independent Advocacy is and how it differs from information and advice.

An independent advocate helps people express their views and make informed decisions. An advocate helps people to find out information, explore options and decide for themselves what they want. An advocate can be a voice for the person and encourage them to speak out for themselves. Advocates do not tell or advise someone what they think they should do. For more information about Independent Advocacy please see the ‘SIAA Principles and Standards for Independent Advocacy’.

Independent Advocacy organisations are free from conflicts of interests as they provide only Independent Advocacy. We believe this independence is particularly important with regards to the implementation of SDS as the individual may be making decisions around the payment of care and support services and therefore service providers or other relevant people who are supporting or caring for the person may have a potential conflict of interest.

The need for access to Independent Advocacy was recognised by the recently published report, ‘Counting the Cost of Choice and Control: Evidence of the Costs of Self Directed Support in Scotland’.

We believe that the Bill should be amended to include a right of access to Independent Advocacy as defined by S259 of the Mental Health (Care and Treatment) (Scotland) Act 2003. This right should be available to all who are offered SDS under the legislation, including adults, children and young people (see response to question 4) and carers.

Independent Advocates have raised concerns regarding the quality of information sometimes provided to people making decisions around whether they should use this method of personalising their care. In some instances they have noted that the person has not always been made aware of the responsibilities connected with direct payments and have only been informed of the benefits, and on occasion they have been concerned that the person
has not been made aware that they did not need to move to direct payments but could keep existing arrangements. We believe that to ensure that the person is assured of an informed choice the legislation should specify in detail the information that should be provided to a person making a choice under SDS including information about local Independent Advocacy services in addition to advice and information services.

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

We are unable to comment on this question as the Bill as it stands contains insufficient information.

7. Do you have any views on the provisions relating to adult carers?

The Scottish Government strategy ‘Caring Together: The Carers’ Strategy for Scotland (2010-2015)’ confirms the importance and value of advocacy for carers in their own right and it encourages support for the development of carer advocacy. This should also apply to adult carers in this situation.

Carers have an essential role, and need support to help them address their own needs in addition to those of the person they care for. They should also have the right to the same level of advice and support around SDS including the right to Independent Advocacy.

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?

We are not in a position to comment on this.

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

In this evidence to the Committee we have highlighted the important role that Independent Advocacy must have in the implementation of the Self-directed Support Bill. We believe that the Financial Memorandum should consider the particular role of Independent Advocacy and the demands the Bill will place on this organisation and the movement both in the short term and how this can be sustained in the long term. This should be included within the costs associated with the implementation of the Bill (table 1 of the Financial Memorandum).

The Scottish Independent Advocacy Alliance’s recent report, ‘More for Less?’[^2], on the impact of the recession on Independent Advocacy, has shown the steady increase of demand for independent advocacy in response to cuts to support services; a situation experienced by this organisation also. These raises the concern that, in the current economic climate, rather than being

cost neutral, the implementation of SDS will be seen as a further opportunity for cost savings and therefore have a negative impact on the support offered.

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?

There will be a need to be vigilant to ensure there is no inadvertent discrimination arising following the implementation of this Bill as experience in other situations has shown that often certain groups or sections of society benefit more from changes to services than others. A right of access to independent advocacy will help in ensuring equality of access to SDS for all.

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

The Bill should include a right of access to independent advocacy to ensure that the views, wishes and concerns of all affected are taken fully into account and that people are as fully involved as possible in the decisions made about them and their lives.

Independent Advocacy Perth and Kinross
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