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

I welcome the opportunity to comment on the Bill and recognise the effort that has been made by the drafting team to involve local authorities and others in the development of the bill through the consultation opportunities in which members of my staff have been involved. Although I did not support the need for legislation in this area, I recognise that this is being brought forward and that we must all work together to ensure that this legislation effectively supports the personalisation agenda and is underpinned by values such as self-determination, choice and independence. I believe that on the whole the draft bill achieves this.

In particular, I welcome the duty on local authorities to provide people with a range of options so that individuals can decide how much choice and control they want. I also support the position which ensures that self directed support will be available to all individuals receiving social care services within the context of clearly defined eligibility criteria. This includes adults receiving support under the Social Work (Scotland) Act 1968 and children receiving support under the Children (Scotland) Act 1995. I support the principle that choice should no longer be a default position of arranged services with the option of a direct payment for particular groups of people in particular circumstances.

2. What are your views on the principles proposed?

I agree with the general principles underlying the Bill.

I agree that an emphasis on placing the person at the centre of their assessment and support plan is essential and a general principle which is set to develop the way that social work staff undertaking assessments conduct their work. This is a fundamental value of social work practice. In some regards it is disappointing that such values set out in the general principles are not already embedded in practice and that there is a need for legislation to ensure that individuals have a right to involvement, choice and control. There may be some practical issues with the extent of ‘assistance that is reasonably required…..to make an informed choice…’, for example should such assistance be independent of social work or can this function be supported by social work staff? I expect that this will be explained in greater detail in forthcoming guidance.

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

I support the options for self directed support as they enable individuals to make decisions about how much control they wish to exercise over services. I am surprised by the extent of the rewording from the original draft consulted on in March 2011 as there appears to have been a step backwards in relation to individual budgets. Section 8 and Annex A of the policy memorandum make reference to ‘individuals being informed of a transparent single amount of money or resource’ and to the
‘budget is defined’ but I can no longer see reference to this in the legislation other than in relation to the establishment of a direct payment. I would have preferred such a reference to be maintained. This should however refer to a resource allocation which is identified as a maximum amount. I believe this would support the widely perceived view that there is some expectation that self directed support will result in costs being driven down. The establishment of a maximum individual budget would also support a lesser amount being available to meet an individuals needs within the context of the outcomes they aim to achieve. Although the term ‘individual budget’ was not clear it did lead me to believe that fairness and equity in the allocation of finance was also a central value of the SDS legislation. Perhaps in guidance a glossary of terms would have assisted clarity. I understand that the concept of fair and equitable resource allocation remains in the national strategy although I am surprised by what I see as a weakening of the legislative intentions by the loss of this reference in the draft bill.

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 would suggest that the proposals for the self directed support options in respect of children should be limited to children with disabilities and young carers. To extend this option to all children and families receiving services under section 22 of the Children (Scotland) Act 1995 undermines our progress in working with children and families on a voluntary basis. In Angus our services are perhaps different to those provided in other authorities. Some 80% of our work with all children and families is undertaken on a voluntary basis. Working voluntarily with families aims to develop a more equal relationship where everyone is working together to improve the outcomes for children and I believe this approach leads to better outcomes for families. In implementing SDS however we believe that there must be a balance between need and risk and providing options to some families where visiting family support staff are part of the approach to managing risk may undermine our work on a voluntary basis. We are concerned that this may lead to more statutory intervention than we have previously undertaken. I have found little or no evidence in relation to SDS in this area and it does not appear to have been the subject of any of the pilots that have supported the development of work on SDS in Scotland.

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 believe that there will be challenges in supporting individuals who have difficulties in making or expressing informed decisions to maximise choice and control over their own lives. I believe the balance between ‘reasonable support’ and the use of powers provided under adults with incapacity legislation provides a sound platform for the potential development of support options such as advanced statements, circles of support or other networks around the individual which I expect will be further underpinned by detailed guidance.
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?

Creating a legislative platform where innovation and creativity in meeting outcomes for people who require support is challenging. Such developments will have to be balanced with our responsibilities to ensure assessed needs are met and follow the public pound. It will be very important going forward to ensure that the wider public sees value for money in publicly funded support arrangements. I hope that guidance will provide sufficient detail to ensure that such responsibilities are not mutually exclusive and can be managed effectively.

Adult carers

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

The level of services provided to carers through respite and short breaks is increasing year on year. These services are provided following a carer’s assessment or an indirect assessment through the assessment of the person they care for. Currently services provided to support cares through either assessment route meet the needs of both carers and the person they care for at the same time. The provisions relating to carers potentially open up the arrangements for services to be delivered through SDS. This is a positive way forward however in agreeing the outcomes to be met with carers it will always be essential that the needs of the cared for person are also met at the same time within the same resource. There are no additional resources that would meet outcomes for carers where there is a further additional cost to meeting the needs of the person they care for. It is essential that guidance ensure that the outcomes for carers and those they care for are intrinsically linked.

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?

I continue to have concerns about the employment of close family relatives. This fundamentally changes the relationship between family members and raises issues about contingency planning, risk management and adult protection. I would argue that any revision of the regulations relating to the employment of close relatives could lead to such potential conflicts of interest. I would advocate that the Bill should give local authorities discretion powers to allow an individual to employ a close relative in exceptional circumstances.

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

A separate response on the financial memorandum has been submitted on behalf of Angus Council.
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?

Yes

Other matters

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

It would have been helpful if the report on the SDS pilot in relation to health services in Lothian had been available. This would have allowed better consideration of the application of SDS within health services or where joint services are required. In respect of experience in Angus I would have liked to see a greater application of this legislation to certain health services. This would be particularly effective where individuals supported in the community who have complex needs requiring a level of integration of their social and healthcare were, for example, able to access a direct payment directly from the NHS. Accessing direct payments for physiotherapy and other allied health professional services is one area in particular that has been raised by parents and carers in consultation events on the implementation of SDS in Angus.

Angus Council has been clear throughout the consultation process that it does not support the use of direct payments to purchase residential accommodation this is reflected in Angus Council's response to the earlier consultation in respect of the Self Directed Support Bill.

The introduction of direct payments to purchase residential care may lead to variable rates being charged by providers would not link well with national contracts, top up fees may become an issue, and there is a risk that service users or their circle of friends would not pay. I would argue that there are no clear demonstrable benefits to service users, providers or the local authority in implementing direct payments to purchase care.

Angus Council Social Work and Health
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