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

Our members are overwhelmingly in favour of the Bill, its overarching principles and outlined provisions. However, a sizeable minority are concerned that there is still inadequate information available for them to be able to positively respond to this question. We acknowledge that the success of the Bill will be considerably dependent upon the guidance issued to support its provisions and duties. Members are eager to ensure that this guidance properly reflects not just the principles of the Bill but evidences how the duties and provisions will be enacted, particularly to ensure equality of treatment regardless of age, local authority residence or the nature of support and care which is chosen.

2. What are your views on the principles proposed?

We welcome and applaud the principles which underpin the Bill and which are reflected throughout. The “involvement” of individuals in the arrangement of and delivery of their social care support is central to personalised services. Equally we believe that individuals need “informed choice” rather than the all too frequent deficiency of information which currently exists and further we agree that “collaboration” must lie at the heart of the relationship between the individual, commissioner and provider. These three principles are reflected well within the Bill and its duties. We are pleased that these principles are to be evidenced in the duties which local authorities will have placed upon them.

Members are, however, concerned about how these principles will be evidenced in practice and in particular about the element of choice an individual would have available to them if there is inadequate independent information and support provided for them.

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

The overall response from our members is a generally positive one to the four options outlined. However, some of our members have particular concerns about individual options.

The first option of direct payments is considered by many of our members as currently too restrictive. It is unclear if option 2 includes the ability for an individual to be allocated an Individual Service Fund (ISF) – we consider this should be more explicit and want to support the use of ISFs as central to a successful SDS. We would also strongly argue that each of the options should have a budget allocated to it and that this should not be the same as direct payments. In other words, the Bill needs to be much clearer about the process of budget allocation and choice for each option.
A majority of respondents to our consultation are unhappy or unconvinced about the option offering the LA to arrange support. Whilst we recognise the central role of the LAs, and that many individuals will want to pass significant control to the LA, members argue that there needs to be transparent accountability in this regard. Can a LA be both a provider of care and a facilitator of independent choice? Our consultation reflected the fear that there will be inadequate independent information and independent brokerage.

We are pleased that the provisions will be made available to adults assessed as requiring community care services. This rightly acknowledges the importance of treating all with equality and equity regardless of age or condition.

It is important that care homes are recognised as providing a 'homely setting' which some older people will choose as a support option rather than remaining in their own homes. In principle, people entering residential care should have the same level of choice over their care package as people receiving care in their own homes. Our members are already working in ways which ensures that residential settings are inherently person-centred and are able to offer the greatest degree of flexible choice and support to those who choose to opt for them. We recognise the need to offer a variety of care and support provision which are dynamic and responsive in nature but which retain their person-centred focus.

SDS, in whatever form, requires the local authority to have a resource allocation system that often means eligibility and need is measured and then divided into the available budget. We hope that guidance will ensure that the principles of the Bill are at the heart of such systems of allocation.

Members have underlined the importance of the provision of independent information and advice to help individuals to make the best informed choice for themselves. The possibility of ensuring a right to independent advocacy would enable such transparency and ensure equal treatment across all LAs.

We believe that it would be beneficial if all LAs had a common information brochure on SDS and also who to contact if individuals are having problems with any aspect of their application. In addition, we are concerned that the Bill has removed an explicit role for a ‘named person’ as this would potentially alleviate considerable distress from families in exercising choice in cases of non-capacity.

Scottish Care would be cautious about the creation a network of brokers; how would they be regulated; who pays those providing brokerage and information? How can brokerage be considered to be independent?

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?
Most of our members have indicated general acceptance of the proposals in relation to children and young people and the progressive age varying degree of control. In addition, some members have suggested that an independent agency should be available for advising older children/young people and that mental capacity should be an important determinant in exercising control. Greater emphasis also needs to be placed upon those in transition, what are the choices for these groups and what are the discretionary charging policies, assessment and ability to contribute?

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?

Less than a third of our members responding to this consultation were satisfied with what the Bill says on the provision of advice and information. The issue is not solely about support for those who may have difficulties in making an informed decision, but for all those who may have difficulties in accessing local information and the developing markets. Such advice must be independent and ideally divorced from providers, including the LA. There are also concerns that there is limited capacity within the current structures to provide such independent information and advice.

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

We recognise the need to make direct payments more flexible, widely available and more responsive to need. The powers expressed in the Bill to grant Ministers the ability to introduce regulations will be critical for the success of SDS.

Over half of our members responding to the consultation expressed concern or the need to know more about the practical outworking of proposed direct payment changes. Others in the sector see direct payments as risky, unconventional or “untested” which increases the reluctance to uptake. This is especially the case for older people and those with dementia. More work needs to be undertaken to provide models to ensure a dynamic, competent, consistent assessment when working with people towards a decision about their care and through their care journey. We hope that greater emphasis on direct payments and individual service funds will result in a reduction in block and volume contracting activity and a reduction in current in-house/traditional service models.

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

Scottish Care members agree strongly that adult carers should have an assessment of need and access to the four SDS options. The involvement of carers in a supported and informed manner is essential to ensure real informed choice and control for the supported person. We recognise the thousands of informal family carers who suffer ill health as a direct result of
lack of support in the care they offer. The exercising of this power by LAs needs to be audited to ensure that a carer postcode support lottery does not result.

However, whilst members approve in principle there is concern that such provision should be closely monitored to ensure equity of access and ability to meet need within current fiscal conditions.

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?

Scottish Care members have expressed considerable concern about the lack of restrictions within the Bill for Personal Assistants (PAs) and the employment of family members. Such a lack risks the creation of a two-tier workforce within social care with diverse, perhaps conflicting, models of training, supervision and terms and conditions. The Scottish Government and Scottish Social Services Council’s (SSSC) regulations and requirements for the registration of the social services workforce seem to be compromised if we create a two-tier, partly unregulated workforce. Having more choice and control should not require that we accept an untrained workforce as a consequence. We are not convinced that the Bill has adequately achieved the balance between choice and control and risk and harm. At a time when there is increased transparency in access to information on individuals who may present a risk to the most vulnerable, we would suggest the lack of any safeguarding requirement for PAs and others is unhelpful in managing risk and enabling risk engagement. We would hope that the statutory guidance would make explicit the requirements upon those employing others, not only their duties as an employer but significantly the issues relating to adult protection and safeguarding. There is a potential for supported individuals becoming more restricted in their lives as a result of overly risk averse practice by family members and PAs.

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

Our members do not consider that the memorandum has convincingly evidenced a cost neutral calculation. Indeed, over two thirds of those taking part in our consultation considered that there would be higher than anticipated costs in the short term, not least as a result of significant systems and culture change.

The creation of a responsive and diverse market will not occur overnight and care must be taken to ensure real, adequate and meaningful choice is available where there is a limited market, especially in geographically isolated areas.

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?
Members considered that the Policy Memorandum was broadly acceptable and applaud the work undertaken to ensure that human rights are at the heart of the SDS provision and principles. However, there was some concern expressed that the impact upon rural and island communities is at present hard to determine. What will the true level of choice be for isolated communities? Will there be sufficient encouragement for independent providers to become established in such communities?

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

- There remains a risk without statutory guidance that we will have 32 local authorities with varying commitment and resources to SDS and thus promote the creation of a postcode lottery. There needs to be clear and strong guidance to stop any conscious or unconscious protection of traditional in-house services.
- A national model framework with agreed ranges of rates will assist local authorities to take SDS forward and to achieve the desired outcomes. Scottish Care members are keen to explore a national model framework open to all registered care services with a range of rates for service delivery.
- Some of our members are concerned that local authorities may continue to have too much power as not enough is said within the Bill around challenging eligibility, unmet need or what families might do to challenge. The right to independent advocacy and the explicit right to a review would help this.
- Why is it only social care and local authorities with duties? We would have liked a greater and more explicit indication of the role of health. Joint commissioning is becoming a welcome feature of older people services and we would argue the strides being made through the Change Fund process need to be evidenced in SDS practice at local level. Individuals who use services do not recognise that provision comes from different sources. For SDS to become successful there needs to be a developing perspective which sees support as centering around the individual rather than being directed by whichever source of funding pays for that support, whether health or social care. Integration has to focus on the individual not the system.