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

Carers Scotland

Social Care (Self-directed Support) (Scotland) Bill – Stage 1
Carers Scotland welcomes the introduction of the Social Care (Self Directed Support (Scotland) Bill. This response aims to provide our views on what we believe are key issues affecting carers within the Bill. This builds on our earlier response to the draft Bill and discussions with the Bill team.

In the first instance, Carers Scotland believes that the Bill, building on the Self Directed Support Strategy\(^1\) is a positive development, increasing the availability, access to and choice of tailored support for individuals.

We support the four options proposed within the Bill including ensuring that the choice of retaining current support is valid. However, it is essential that local authorities and others continue to engage proactively with individuals and carers on any change to provision that would affect this legitimate choice, for example, when proposing reductions in “traditional” services such as day centres.

Principles: recognition and involvement of carers
Carers Scotland believes that there is an opportunity within the legislative principles to fully recognise the key role that carers play in supporting disabled and older people in their own homes and communities. The principles outlined in guidance for the Community Care and Health (Scotland) Act 2002 recognised carers as key partners in care and the “Caring Together: Scotland’s Carers Strategy 2010” goes further to state that carers should be seen as equal and expert partners in the provision of care. However, whilst we welcome this recognition, a principle laid out in legislation will have greater strength.

In addition, we believe that Section 1(4) of the Bill could be improved by legislating to ensure that local authorities are instructed to collaborate with any carer when undertaking an assessment and deciding what support to provide to the individual. By ensuring this is action is taken from the outset, we can ensure that carers to be fully involved. This would enable both the individual and their carer to be able to discuss what care the carer is willing and able to provide and what support the individual wants from their carer, if any. This also presents an opportunity to ensure that carers are identified earlier, offered a Carers Assessment and thereafter appropriate support. Moreover, this also ensures that an individual’s choice is not reduced.

This local authority collaboration with carers should also include young carers, including those aged under 16. It is essential and appropriate that young carers are involved in discussions and decisions on self directed support. Local authorities may wish to consider working with young carer projects to

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\(^1\) Self Directed Support: A national strategy for Scotland (2010). Carers Scotland has been involved for some time in the Implementation and Monitoring Group of the Self Directed Support Strategy and in its subgroups on support and education/training.
help develop local guidance for professionals and appropriate information for young carers to enable this activity.

**Informed choice, information and advice**
Carers Scotland believes that it is essential to ensure that statutory and voluntary organisations have sufficient capacity to ensure that they can provide advocacy, advice and information and support. We welcome the investment made in building capacity of support services and in carers’ information and training through the self directed support strategy. However, demands on these services with the implementation of the Bill must be monitored to ensure that organisations have the capacity to respond and ensure that individuals and carers have access to timely and appropriate information and advice.

However, we have particular concerns over the availability of independent advocacy for individuals and carers. The Scottish Independent Advocacy Alliance report “More for Less” found that 95% of respondents reported an increased demand for their services over 2 years, with over a third (36%) reporting an increase of between 16% and 30%. This increased demand for independent advocacy reflects changes to legislation, service provision and delivery and reductions in support. Moreover, it is within an environment of reductions of around 32% from statutory funding and similar decreases in trust and foundation funding.

Therefore, to ensure that individuals and carers have access to appropriate independent advocacy, it is essential that, in implementing this new legislation, the capacity of independent advocacy services is sustained and increased.

**Support for carers**
**A power to support versus a statutory duty**
Carers Scotland supports the proposal to extend self directed support to carers and young carers. However, we continue to believe that this should be made a duty to offer self directed support for carers, rather than simply a power. We believe that enacting the legislation simply as a power will result in inequity with significant variances in practice, and thus support for carers, across local authorities.

As stated earlier, carers are recognised as key partners in care. As such carers require resources to assist them to continue to care, in the same way as is provided to health and social care staff. Under current legislation, there are no specific duties to provide services to carers. By legislating for a statutory duty rather than simply a power, this Bill presents an opportunity to deliver a limited right to some practical support, subject to assessed need.

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2 And in dedicated carer support and information through NHS Carer Information Strategies and local authorities.
4 “Cuts to public services inevitably result in more demand for independent help”.
Whilst we recognise that there may be costs associated with the delivery of duty rather than a power, there is a strong economic case for supporting carers in this way. Providing small interventions at an early stage and/or at the right time can prevent a crisis and a consequent breakdown of care, necessitating the provision of significantly more costly services. Providing support at the right time can also prevent carers from having to give up paid employment and activities that sustain their life outside caring, resulting in negative consequences for their finances, health and wellbeing.

**Costs**

However, whether a duty or a power, Carers Scotland has some concerns over the assertion within the Financial Memorandum that there will be no increased financial requirements (on the implementation of a power to support carers) but rather a simple transfer of resources. To make this provision meaningful it is important that additional funds are made available to local authorities and that assistance to carers through self directed support should not be at the expense of existing support services e.g. carers centres and condition specific carer groups.

**Carers Assessments**

Furthermore, we are concerned that access to self directed support is solely through a Carers Assessment. In proportion to the number of carers in Scotland, very few carers receive a Carers Assessment. Obtaining and completing a Carers Assessment can be a long process and, we believe, is unnecessary in the event of only a short or small intervention being required or where a speedy intervention to provide support to a carers could make a difference. Local authorities and NHS bodies should be provided with the power to make such interventions without the requirement of a full Carers Assessment. Furthermore, local authorities should consider the role of carer support services in continuing to facilitate speedier self assessment processes.

In addition, many carers do not qualify as “substantial” and “regular” carers and thus for a Carers Assessment. However, they would benefit from small preventative interventions, particularly to help sustain employment or wellbeing. Carers Scotland therefore recommends consideration of extending self directed support to carers who do not meet the qualifying criteria for a Carers Assessment, subject to appropriate guidance. As part of “Caring Together: Scotland’s Carers Strategy” the Scottish Government intends to commission practice guidance for Carers Assessments\(^5\). This could prove a useful vehicle for exploring the social and costs benefits of providing preventative support to all carers.

**Charging**

The Bill as proposed will give local authorities the power to charge carers for the support they receive under self directed support. Carers Scotland strongly opposes this proposal. To replace the care carers provide would cost £10.3

\(^5\) Action Point 9.3
billion each year\(^6\) and, as key partners and the largest contributor of care, it would be unjust to charge them for services that support them to sustain their caring role. (We would not, for example, consider charging health or social care staff for practical support or training to help them do their job). Moreover, this proposed approach would lead to further inequality for carers depending whether or not their local authority chose to make charges for support or the levels of local charging. We therefore recommend that Section 16 must be amended to reflect this.

**Separate budgets**
It is also important that any provision of self directed support to an individual carer is held separately from that of the person they care for and that the level of budget for the individual is unaffected. It cannot be assumed that the needs of both are the same and “sharing” of a budget could reduce choice to one or both parties.

**Support for young carers**
Carers Scotland welcomes the recognition that young carers could benefit from the same limited interventions as carers aged 16 and over, particularly in supporting education and life outside caring. To support this, we recommend that the Scottish Government and partners including young carers’ services work together to support delivery and the provision of appropriate guidance, information and advice.

**Employment of Close Relatives**
Carers Scotland welcomes the recognition that the employment of close relatives is often the best solution for individuals and will help deliver better outcomes. We further welcome the decision to reduce the restrictions currently in place and develop regulations for local authorities to consent to this solution when it is an informed choice for the individual and their carer. In particular this presents opportunities to support carers who do not currently receive any or limited support.

In research by Carers UK, 45% of respondents employed a family member and 65% of carers believed the rules about who could be employed with a direct payment should be less restrictive so that close family members could be employed more easily.

"Direct payments are the best thing that could have happened to our family. My husband would not readily accept care workers, luckily our local authority accepted our employing a family member as he has complex needs. Prior to this I coped and struggled on, virtually alone, for 20 years with no input from Social Services. If direct payments had not been available for our family, I would still be going it alone."

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\(^6\) Valuing Carers (2011), Carers UK
However, to prevent any inequality, it is essential that regulations are developed in a way that provides a nationally agreed framework for consistent delivery.

**Conclusion**

In conclusion, Carers Scotland would like to reiterate our continued support for self directed support and our welcome of the proposals within the Social Care (Self Directed Support) (Scotland) Bill 2012. Whilst we have some concerns around the proposed provisions to support carers, we believe that self directed support will deliver more choice and therefore better outcomes for both individuals and carers.

Carers Scotland
24 April 2012