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

Outside the Box

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

Yes: we strongly support the Bill and its provisions. Legislation is needed to ensure that the arrangements are implemented and are available to people throughout Scotland. It is also important that people have access to Self-directed support as a right and not at the discretion of staff in local authorities.

2: What are your views on the principles proposed?

All 3 of the principles that are outlined are essential for the fair and effective implementation of Self-directed support and as the basis for people in Scotland receiving social care.

Those that are listed are all important. We would also like to see additional principles added, to ensure that the links with other recent legislation and polices are reinforced: the human rights principles that underpin the Adult Support and Protection (Scotland) Act 2007 and the understanding of support to maximise people’s capacity that was initially set out in the Adults with Incapacity (Scotland) Act.

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

We agree with the range of options proposed in the Bill. Many of the people we know would however have more confidence in Option 3 if the additional principles we suggest were supporting the legislation. The choice of the right option, and then the choices that are made around particular types of support to achieve the outcomes that each person wants, will also depend on people having access to good, independent information and advice.

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?

We think this is a good proposal. It will do much to give children and their families the flexible support that will enable them to have a good life. It will also give young people the experience that will help them get the best support arrangements when they become adults.

The independent advice and information arrangements will also have to take account of the needs of children and young people and their families.
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?

We would like to see a provision which ensures that the information and advice provision is independent of local authorities, NHS Boards and of the organisations providing care services at least in that local authority area. We would also want to see an explicit requirement that information and advice is available to all people using social care services within the scope of this legislation, and so includes a clear standard around equality of access.

We also think that there should be a right of access to independent advocacy, for those situations where people need additional help to get the advice they need, or to explain what option and services they have chosen.

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

We agree with the changes that the Government is seeking, and agree that these are necessary. The ways in which the current arrangements have been implemented have resulted in many people getting good care and support, but there are still too many instances of people not getting the support they know they need and of people having little or no real choice and control around the support the receive and how it is provided. We think the methods outlined in the Bill will go a long way to achieving the changes, but there are still other aspects of access to social care that need to be strengthened such as the assessment and care management functions. The additional principles and other arrangements we have suggested are all aimed at making the overall arrangements stronger by reinforcing and complementing the methods to modernise direct payments.

The use of secondary legislation to achieve the change will be effective provided the Bill has the clear, strong framework provided by the principles and links to other legislation.

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

We are pleased that the support adult carers receive is also part of the provisions in the Bill.

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 understand the reasons for not introducing a high level of additional bureaucracy and for recognising that many people are well able to make and see through sound judgements about who they want to employ. We are also aware that this can be dealt with as part of the implementation arrangements. But we think there are advantages in minimum requirements to help
safeguard the wellbeing of the people involved, especially in situations where someone has few friends and family around them to help keep an eye open for potential risks. We think this will provide reassurance and address some of the concerns that are being raised about potential risks. We would be interested to hear the views of the Committee and of the Government on whether this can best be met by a provision in this Bill or clearer links with the existing Adult Support and Protection arrangements.

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

We are aware of the experience in other countries that the long-term impact of developments like those outlined in this Bill has been to make better use of public funds as well as improving the outcomes and choices for people who use services. We hope that the concerns of any organisations about the short-term financial impact – generally or for them – will be considered in the context of the significant longer-term benefits.

10. Are you satisfied in the assessments that have taken place in regard to equal opportunities, human rights, island communities and sustainable development and in the conclusions reached by the Scottish Government?

We welcome the full consultation that preceded this Bill and the work done by the Government to consider all aspects carefully. Overall, we think that the assessments are right. We think that the human rights aspect can be strengthened further. We are confident that these matters will continue to be reflected in the implementation arrangements. However, we would like to see progress reports to Parliament on the implementation and impact of SDS that specifically includes the way these aspects are being achieved.

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

We think the scope of the Bill could be clarified or extended, to make sure that care such as nursing home provision that is paid for by NHS Boards is also included and people in these circumstances have the same level of choice around how services are arranged as do people where that care is paid for through other routes.

We also think that the arrangements here could be extended to some of the health care services that are used by people who have long-term conditions. For many people, it is a mix of health care and social care services that keep them well and able to have a good life. They understand that some services are part of the NHS and free at the point of delivery, and some are organised through the local authority and can have financial contributions. What they want is a high and consistent level of choice and flexibility around how these services are delivered. They also see opportunities for more provision within
the voluntary sector that could complement health care services and make better use of specialist skills and resources within the NHS.

We have heard that some other people and organisations believe that the provisions of this Bill should be restricted and that some groups of people should not benefit, or some forms of care – such as residential care and nursing home care – should not be included. We believe this course would be very unfair and would be inconsistent with the principles and values that are reflected across other parts of life in Scotland. The principles of choice and having the possibility of greater control over the care and support we receive – even when we choose not to use it for the moment – are being introduced because people need this in order to have the quality of care and choices in our lives that we all deserve.

There are concerns about the overall level of resources available for social care services in Scotland, as in other parts of the UK. The people whom we talked to share many of these concerns. We also know that some local authorities are using the introduction of direct payments, and now of SDS, as an excuse or mechanism to make significant reductions in the level of resources they spend on social care. We hope that the Committee will follow this up and take a lead in the national debate on these matters. However, we hope that the fears people have about adequate resources do not complicate the debate around this Bill, which is about how people have choices around the use of whatever resources are available.

People we work alongside are concerned about the potential unintended impact of the implementation of SDS on services that have a preventative aim and help people have a good quality of life. Often these services are quick and easy to access and can be used in flexible way, and often have a strong peer support element. People who use and work within these services are worried that these services will no longer be available as local authority resources are moved to different budgets as part of the implementation of SDS, and/or will need a longer assessment process before someone can use them. We believe that this type of preventative service is essential to complement other services and arrangements, and to help achieve both the impacts for individuals and the best use of the available resources. We know these issues are part of the discussion around the role or publicly-funded services and around the links between health and social care services. We hope that the Committee will encourage the links between the policies and take account of the overall impacts of changes.

The current social care system in Scotland is dependent on good assessment and care management by social workers. This will continue under the proposed changes. We are aware that some people get excellent support from the staff taking on the care management role. Other people are not so lucky – they have care managers who appear to have poor skills and training, and/or who have heavy case loads, and/or who are starting from a viewpoint that is not supporting choice and inclusion. There are other programmes that are intended to improve the quality and availability of care managers in Scotland. It would be helpful if the Committee asks the Scottish Government
what progress is being made on these and looks at ways to hold both central bodies and local authorities more closely to account for the quality and availability of care management. Our concern is that without this the impact of this Bill and the very important benefits it will bring will be lost for some people.

Outside the Box
24 April 2012