Social Care (Self Directed Support) (Scotland) Bill

Care Inspectorate and Healthcare Improvement Scotland

On behalf of the Care Inspectorate and Healthcare Improvement Scotland, we are pleased to respond to the Health and Sport Committee's call for written evidence. In making this joint submission, it is our intention that in future the role of scrutiny bodies with responsibility for care and health services scrutiny will enable an improved focus on the outcomes for individuals seeking support across the spectrum of care and health.

We recognise that there will be consultation on the integration of Health and Social Care Partnerships during 2012, and so this current consultation on self-directed support is seen by our respective organisations as a precursor to broader integration.

The role of external scrutiny bodies will therefore continue to focus on the social care and health pathway experienced by individuals in health and community services.

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

The Care Inspectorate and Healthcare Improvement Scotland welcome the Bill. We recognise the importance of greater choice and flexibility to deliver more person-centred care, which in turn requires a continued shift towards the transfer of power and control to individuals who require care and support services.

Local authorities already offer options such as direct payments. This proposed legislation has the potential to allow an increasing number of service users and carers to exercise choice over who delivers the services they depend on to maintain their independence and improve their well-being and quality of life. It also has the potential to increase uptake of direct payments.

The provisions of the Bill formalise in law what should already be happening in local authorities. Social work services staff should discuss the option of direct payments with service users and carers at the needs assessment stage. Social work services staff should also carry out assessment and care management in a manner which affords the service user or carer with choice about their care and support arrangements. When the Care Inspectorate carries out inspections of local authorities’ delivery of social work services we scrutinise their strategic and operational approaches to the provision of direct payments and self-directed support. Across Scotland the picture is mixed – some local authorities perform better than others in respect of provision of direct payments and self-directed support – however, it is clear that interest in, and activity on, direct payments and self-directed support has grown and developed considerably over the last two to three years.
2. What are your views on the principles proposed?

The key principles of user and carer involvement and collaboration – supported by an advocate if appropriate – are sound and consistent with the direction of travel in a wide range of Scottish Government polices.

Again, local authorities should currently abide by the general principles set out in section 1 of the Bill, in respect of the needs assessment and service provision for people who require care and support, and also for unpaid carers. It must reflect the person-centred needs as identified in the assessment process.

Collaborative working will need to include providers of services where services are commissioned for individuals or for groups. The values of choice, control, dignity and respect form a strong basis for developing self-directed support.

Scrutiny bodies such as the Care Inspectorate and Healthcare Improvement Scotland include within current inspections, the principles of Duties of User Focus and Co-operation, each contained within the current provision of the Public Services Reform (Scotland) Act 2010.

When considering outcomes, any guidance accompanying the Bill should also reference outcome approaches specifically for children including SHANARRI, and My World, as well as Talking Points. The National Outcome Framework references mainly outcomes for adults.

The Care Inspectorate’s scrutiny work includes assessing how well:

- local authorities develop and deliver their statutory responsibilities for the whole range of services for people of all ages
- care is managed and services are commissioned, set against quality indicators
- providers deliver services and meet the National Care Standards
- local authority social work services deliver positive outcomes for service users and carers

Healthcare Improvement Scotland and the Care Inspectorate will work closely in developing proportionate and risk-based approaches to the scrutiny of services, especially with the commitment to establish greater integration of health and social care.

The model for scrutiny will need to continue to evolve and adapt to new approaches to provision of care, especially outwith traditional hospital and care settings.
3. What are your views on the four options for self-directed support proposed in the Bill?

As they stand, the four options for self-directed support are acceptable. The critical factor for the successful growth and development of self-directed support will be the way in which social work services and health professionals put these options to service users and carers.

If the four options are formally put to service users and carers in a perfunctory/routine manner, this will be potentially meaningless and unhelpful to service users and carers. If on the other hand the four options and their implications are discussed with service users and carers in a genuine, careful and considered manner, this will enable them to make an informed decision about which option(s) to choose. To ensure that the latter becomes standard practice, the measures that local authorities should take include:

- strong leadership and championing of direct payments and self-directed support
- staff training – for both social care and health
- robust policies and procedures
- effective governance, supervision and management of staff and systems for quality assurance
- meaningful involvement of service users and carers at all stages in the planning, delivery and evaluation of self-directed support
- discussion with service users and carers about what happens if care arrangements, that are funded by a direct payment, break down.

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?

The Care Inspectorate considers it important that direct payments and other self-directed support options are available to children and their families. Children and young people should be fully involved in decisions about their care and support, dependent on their capacity or interest in being involved in the process. The principle of inclusiveness should be integral at all stages of a child’s development. As referred to in response to Q3, an informed decision will be more meaningful if the preferred form of support at the time is discussed in a careful and considered manner. This is also more likely to inform a longer term view about changing support needs at times of transition, such as leaving school, entering further education, or moving into independent living accommodation.

Direct payments have tended to be made exclusively to the families of children with disabilities. Where it is appropriate, local authorities should
consider making direct payments for other children and young people who are children in need, according to section 22 of The Children (S) Act 1995.

Good monitoring arrangements are required to ensure that the direct payments are used for the purposes of improving the outcomes for the person concerned.

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 know from our inspections of social work and social care services that people who use services and carers, regularly report a lack of information about their options and entitlement. This is not always due to a lack of information, but rather the information is not easily available at the right time. Appropriate information should be readily accessible both in format and frequency.

We have also found that some local authorities have developed innovative approaches to providing information to service users and carers about services and options for service delivery that are available. For example, one local authority has set up a Futures Fair for young people with disabilities and their families. A range of exhibitors at that annual event provide information and advice to the young people and their families about:

- further education and training opportunities
- employment opportunities
- leisure and recreation opportunities
- options for support and care as the young people make the transition to adult services.

Further consideration should be given to the deployment of independent advocates where appropriate, although this should not reduce or compromise the pre-existing professional advocacy role of health and social care staff.

Healthcare Improvement Scotland also recognises the opportunity for improving information and advice and this is referred to more fully at Section 7.

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

The provisions of section 13 of the Bill, which set out the powers of Scottish Ministers to make provision about direct payments though regulations, are sound and reasonable. There should be consultation with stakeholders in respect of Scottish Ministers exercising these powers in the future.

7. Do you have any views on the provisions relating to adult carers?
Section 2 of the Bill confers a new power on local authorities to provide services to meet the assessed needs of a carer. Local authorities have been providing services to meet the assessed needs of carers, in the absence of the formal legal power to do so. The powers set out in Section 2 of the Bill are permissive rather than mandatory duties. These will have a positive effect if they are put into practice by frontline staff through careful explanation and discussion about the carer’s current commitments.

Section 2 of the Bill standardises the position of a local authority when it provides services to support a carer after a carer assessment.

In addition, the role of health professionals can be critical in identifying when a carer’s own health has deteriorated, rendering him/her unable to continue to provide ongoing care and support. The Quality and Outcomes Framework for the General Practitioner contract includes provision for the identification of carers, and a mechanism for the referral of carers to social work services for assessment.

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?

The Care Inspectorate is broadly in agreement with the approach taken by the Scottish Government not to place restrictions on those who may be employed by individuals through the proposals in the Bill.

One possible consequence of the establishment of the proposed regime is that a significant number of support services currently provided by registered care services may in future be provided by individuals engaged to personally and solely provide the care and support concerned. Such individuals do not fall within the regulatory regime currently operated by the Care Inspectorate, and are not required to be registered with the Scottish Social Services Council (SSSC).

It, therefore, appears that significant amounts of care may come to be provided by individuals who are not subject to formal legal requirements such as qualifications, registration or inspection. While it is understood that this reflects the Scottish Government’s policy approach, it is not immediately apparent how that is to be reconciled with the policy of promoting professionalisation of the social care workforce, as exemplified by the continuing implementation of the requirements for sectors of that workforce to achieve registration with the SSSC.

The Care Inspectorate and Healthcare Improvement Scotland recognise that the management of transitions of care between professionals emphasises the need for clear operating arrangements between health and social care staff. This allows for concerns such as adult support and protection to be appropriately raised and acted upon.

It is important that individuals who opt for direct payments and self-directed support do this in a way which keeps them safe from abuse and exploitation.
The SSSC is in the process of rolling out registration to care at home and support workers employed by agencies required to be registered with the Care Inspectorate. The UK Government is currently exploring the option of a voluntary registration scheme for adult social care workers in England that includes personal assistants.

Individuals who receive direct payments and who wish to employ their own support workers need to act as good and responsible employers. Key factors for achieving this are:

- Good advice and support systems (often by an organisation commissioned to deliver advice and support) for recipients of direct payments and self-directed support.

- Sound monitoring by the local authority, as part of their responsibility for care management, to ensure that direct payment and other self-directed support arrangements are safe and continue to meet the needs of the service user or carer.

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

We should not underestimate how long the shift in how services are delivered takes. Although involvement and greater collaboration are already in progress, it may take longer to shift the range of services available, especially as a shift away from more traditional models of care may be required. The Care Inspectorate’s social work performance inspections have evidenced some good examples of service redesign from day care services but these achievements have been made over a five to ten year time frame. All sectors will need to agree that they can change how they deliver services on a cost neutral basis.

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?

We are satisfied with the conclusions.

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

No.

Care Inspectorate and Healthcare Improvement Scotland
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