Turning Point Scotland provides person centred support to adults with a range of complex needs. We work with people who have a learning disability or an autism spectrum disorder, and those who find themselves in the criminal justice system or experiencing homelessness, substance misuse or mental ill health. We learn from service users and seek to influence social policy.

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

We are generally in favour of the Bill, and certainly support the policy aims of maximising people’s choice and control over, and their involvement in the design and delivery of their support. Our concerns relate to the implementation of this approach, so while we see this as a largely positive Bill we will highlight areas where we feel it should be strengthened.

The scope of this Bill is broad, applying to all community care services, as defined by Section 5A of the 1968 Act. Although the drive for self directed support has come from the disability field, and the majority of work and pilots to date have related to this care group, it is our understanding that this Bill could equally apply to substance misuse, homelessness and housing support services. As an organisation working with a wide range of support needs, we see the value in extending the concept of self directed support, and involving more people in their support; however we are concerned that little thought has been given to the implications beyond the disability field, and the structures and approaches that may be required. We would seek clarification on the intended scope of this Bill, and if indeed it is to apply across all community care services, we would ask what steps have been taken to consider the wider implications.

**Q.2 What are your views on the principles proposed?**

We support the general principles proposed, and agree that actions and decisions in this area should be underpinned by a commitment to involvement, support and collaboration. Our concern is that these principles do not go far enough to ensure the inclusion of people with significant needs.

The policy aims that underpin this Bill are “...to ensure that services and support become more flexible and responsive to people’s needs (in line with the Christie Commission’s recommendations), and to drive a cultural shift
around the delivery of support and views people as equal citizens with rights and responsibilities rather than people who receive services.\footnote{Policy memorandum – Page 5}

A person who is able to make and manage their own decisions will be able to benefit from the improved support that this Bill aims to deliver, and the Bill has made welcome provision for meeting the needs of people who require some support to make such decisions. We are not clear on how this Bill will deliver for people who lack capacity, or who require significant support to make and manage decisions.

There are strong principles established in the Adults with Incapacity Act, Mental Health (Care and Treatment) Act and the Adult Support and Protection Act, to ensure that any intervention must benefit the adult and be the least restrictive option, and of course these would apply to any decisions made under this Bill. Although these safeguards are important, we feel that there is scope to include a fourth principle, that ensures that any decision taken on an individual’s support, whether it is taken by a carer or family member, guardian or welfare attorney, or by a local authority, should be based on a person’s needs, preferences and aspirations, as far as they can be established. Section 7(5) of the Bill includes such a provision for children receiving support, recognising that although children may lack legal capacity, they are still able to and should be encouraged to express their views, and that these views should be considered. We would like to see this recognition extended across the Bill.

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

We support the four options outlined under Section 3, and feel that they offer a range of choices to the individual. Our concerns in this area relate more to the implementation of the Bill than the Bill itself, and we raise them here for the committee’s information.

Turning Point Scotland works in a number of local authorities across Scotland, and we have seen the range of different approaches to the implementation of the personalisation agenda, and self directed support. We are concerned that rather than empowering people, the processes as they have been rolled out by local authorities are in fact moving the balance of power further away from the people we support. In Glasgow for example there has been a marked increase in guardianship actions, and many Councils are cutting services under the banner of personalisation; most often there has been scant involvement of the person themselves and little involvement from Care
Managers (where these still exist). There also seems to be a shift away from multi-disciplinary approaches to power for decision making sitting with one person or department. This issue is presented in greater detail in the Learning Disability Alliance Scotland (LDAS) response, which we support.

We are sure that this a point that will be made by many respondents, but the effectiveness of this Bill will depend on its implementation. There is little in this Bill about the monitoring and reviewing of support plans to ensure that progress is being made towards agreed outcomes. Not only is this essential if we are to ensure that support is properly targeted, but there must also be structures in place to ensure the appropriate use of public funds.

We would welcome greater guidance on this area, and feel that the Scottish Government will have to take a greater role in monitoring the implementation of this bill and of self directed support if we are to achieve the desired changes. We note that the Self-directed Support Implementation Group will lead on the review of data collection, and will progress towards measuring outcomes for people directing their support, which we welcome. We look forward to further detail on this important process, and the way in which the information will be used.

Q.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?

Our comments here relate back to our proposed additional general principle; that the interests of the individual must form the basis of any decisions or actions taken. Consideration must be given to ways in which we can ensure that decisions are made in the interests of the individual being supported, and not in the interest of those making the decision. An example to highlight our concern is the current situation regarding mobility cars; these are often used as a family car to the detriment of the person we support. They are the car owners, but are unable to access the car because it is used by other family members. Under the current structure this is seldom, if ever challenged.

We would like further consideration to be given to safeguards that could be put in place to avoid such misappropriation. These could include risk assessments, or the involvement of independent advocacy.

If a person’s circumstances change after they’ve chosen their SDS option, the local authority must give them the chance to choose again; this is a welcome provision, particularly for people who are unsure about self directed support. The wording of the Bill is clear that they should be offered the opportunity to
reconsider their choice; there is no requirement on people to choose a different option.

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

A flexible approach will need to be taken to supporting adult carers. There will be times when support for a person and support for a carer will overlap, for example a good quality respite service will provide a break for the carer, but should also meet the individual’s needs. We would like to see a situation where a flexible and creative approach is taken, applying the principles of this Bill and our proposed additional principle to guide the use of resources, ensuring that both party’s needs are met and potentially making savings. However we are concerned that the pressure on budgets will result in an approach guided by savings rather than what is best for the people involved, and that the needs of one party will supersede the other.

Q.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?

Over the years we have introduced significant safeguards and protection to ensure the suitability of the social care workforce, and to identify and bar any individuals who may put people requiring support at risk. We are not clear on how these safeguards will apply to people employed by individuals through self directed support, and are concerned at the gap this may leave in protection structures. People accessing self directed support will need advice and information on how to make use of the protections that are available to them.

The same can be said about requirements for training and qualification of support staff; again this issue is discussed in greater detail in the LDAS submission, which we support.

Turning Point Scotland
25 April 2012