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

East Ayrshire Council

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

East Ayrshire Council welcomes the Bill and is confident that our practice currently reflects similar provisions and principles in terms of person centred practice and inclusion of the individual at the centre of service plans relating to them.

It was felt that there is a need for a code of practice for the implementation of the Bill to ensure standardisation across Scotland.

In addition to Local Authorities own internal measures for monitoring and regulation it is proposed that this is also undertaken at a national level.

Clarity is required on the role of the Care Inspectorate for people who may elect to procure individual support outwith registered bodies and for the potential development of Brokerage Agencies.

General principles underlying the Bill

2. What are your views on the principles proposed?

The principles underlying the Bill are fundamentally similar to those which inform social work practice in East Ayrshire Council. East Ayrshire Council welcomes the adoption of these principles into Social Care legislation and would support any forthcoming legislation based on similar principles.

3. What are your views on the four options for SDS proposed in the Bill?

The Council supports the 4 options and recognises that Option 1 should have primary status.

We recognise focus would be required to ensure that adults who lack capacity are assisted to make a true informed choice on the way in which their support is delivered and also how they will be supported in the long term to ensure their outcomes best meet their needs.

It was anticipated by front line staff that there may be a substantial amount of time required with some people who require assistance in supportive decision making and in giving them time to make their choice. This has resource implications for local authorities.

The implementation of the sliding scale is a huge cultural change and will require awareness raising and training with providers, health and other services as well as the wider community on the principles behind and the options for self directed services.

The level of uptake of Option 1 should it increase substantially may lead to change to cost driven services where the individual opts to employ personal
assistants who may be at present untrained and unregulated or regulated providers who offer lower cost/ lower quality services.

Additionally the level of uptake of Option 1 may have an impact on local authority contract and commissioning services, legal services, systems for payment and charge recovery and IT system development. There will also be impact on traditional building based services such as day care centres, and respite units as well as local authority homecare staff while independent sector providers will also require to review and develop their services.

The 4 options in terms of the proposed legislation will require significant training resources for the council’s workforce and external support agencies and partners.

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.

Staff directly involved in the provision of children’s services more than welcome the Bill’s options and will equally welcome guidance, regulation and monitoring.

Staff members are in agreement that children should have control over the process and their services dependant on their age. It was felt this would assist in the transition for children into adult services. However it was also recognised that this could be a very complex area of work depending on the legal status of the child. Additionally we could find no reference in the Bill to section 29 of the 1995 Act and its potential for the use of Self Directed Services. This may benefit from clarification also clarification that sections 23-24 of the 1995 Act are included.

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?

It is acknowledged that a wide range of support and advice will be required to implement this Bill and will impact significantly on local organisations, care providers and partners who are already working to capacity.

There may be challenges for the social care workforce in ensuring that people who lack capacity are assisted by an appropriate person, supported to make an informed choice and then who will be able to assist them once the support is in place. There was concern expressed for the potential increase in financial abuse and control of vulnerable adults and children. It was also an issue of concern as to who may be considered an appropriate adult for some people who require support.
For some individuals interventions within Adults with Incapacity legislation in terms of guardianship may be required which may delay the time between thinking and planning and subsequent implementation of care plans.

**Direct Payments**

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

This method plus the underlying principles of the Bill should results in the modernisation of direct payments if and when appropriately resourced.

**Adult Carers**

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

The power for the local authority to offer service to carers may encourage the uptake of carer assessments/support plans as we would be able to offer services in a direct response to the carers assessed need.

We should recognise the potential for conflict to arise when the carer is also the responsible person/guardian for the person who is being cared for.

The implementation of delivering services to carers may have an impact of double funding with regard to some services which are currently delivered to the cared for person i.e. respite.

There would need to be clarity on whether there would be a charging policy for carers’ services.

**Individuals’ responsibilities and risk enablement**

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?

It is felt that there is still a need for protecting individuals from potential risk and as at present a PVG is always completed and that this should continue.

Currently discretion lies with local authorities with regards to employing close relatives and it is our view that this should be maintained with further guidance provided on this.

We recognise that safe recruitment is paramount to the success of Option 1.

**Financial Memorandum**

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

A separate submission has been made to the Finance Committee with respect to this and has been attached for reference. It is concerning that the
assumptions made with respect to implementation of the Bill does not reflect the most conservative calculations submitted in August 2011.

**Effects on equal opportunities, human rights, island communities and sustainable development**

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?**

East Ayrshire is a mix of urban and very rural community and as a consequence there was concern around the costs for some people to access a quality service due to their rural locale which may result in inequality.

**Other matters**

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

There is no mention of how the Bill will work in partnership with Health given the consultation on the integration of Health and Social Care which is expected this year.

There are concerns about how the Bill would fit within joint financial arrangements as these become increasingly complex as progress is made, particularly with respect to charging guidance.

It was felt there is a missed opportunity to expand the use of Self Directed Services to other service provision for instance within Leisure and Housing to enable a service user to have a truly holistic support plan of their needs.

The implementation of the Bill gives a real chance for service users to be innovative about the outcomes that they feel would most benefit them.

East Ayrshire Council
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