SDS099

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

Fife Council

Views on the Bill as a whole

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

Legislation was generally welcomed in consultation last year and attendance at the Bill’s launch in March 2012 at Dynamic Earth confirmed that there is a real desire, particularly from service users and carers, to have legislation to underpin and embed SDS.

- It is suggested that the term ‘social care’ ought to be removed from the Bill’s title; the principles of choice and control need to extend across health and social care. This is particularly relevant given the integration agenda. The current title is too restrictive therefore.

- Recognition needs to be given to the fact that SDS in health is in its infancy but there are two NHS/Local Authority test sites currently (Fife and Lothian). Links between social and health care referred to in the draft bill and accompanying memorandums, should refer to and reflect findings of the two NHS/Local Authority SDS test sites due to be reported on in Spring 2012.

General principles underlying the Bill

2. What are your views on the principles proposed?

- Principles underpinning other legislation e.g. Mental Health Act and AWI Act have proved to be very helpful so a principles based approach is very welcome here too. The principle of reciprocity is included in the Mental Health Act and it is suggested that this principle be considered in the context of the SDS Bill too thus embedding true partnership and making expectations explicit on partners.

- Reciprocity in this context would require the recipient of self-directed support to deploy any allocated budget in ways that meet mutually identified outcomes agreed with the local authority. Accountability therefore sits with the individual and the local authority.

- SDS and its principles rightly presume inclusion however there will be some individuals and groups for whom risk assessments and individual needs assessments dictate that SDS is not appropriate. Discretion and professional judgement therefore needs to be embedded in guidance and regulations.
Options for self-directed support

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

- The four options will provide greater flexibility with the aim of achieving better outcomes for the individual. The delegated powers memorandum confirms that Ministers are keen not to unnecessarily limit any future practice to these four options and this is welcomed; none of us know how SDS will evolve but our hope is that flexibility and creativity of choice will grow beyond the four options we are aware of to date.
- A choice of options also ensures that individuals can choose what is right for them at a particular time and also choose different options according to changing needs.
- Personalisation and increased choice and control will bring with it challenges too, for example, within shared living settings where service users may choose a variety of different providers/arrangements.
- Experience in Fife to date confirms that the effectiveness of any options will be underpinned by the quality of advice on choice and clarity of information provided to the individual. Significant investment therefore is required in training those who will support this transformational change. It will be essential to provide consistent and accurate information across all sectors in a range of accessible formats via a wide variety of delivery methods. This will ensure maximum participation and inclusion.

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?

- This is in line with GIRFEC and complements well established child/family centred planning approaches practiced by integrated children’s services. As with adult services, other legislation will also necessarily be taken into account where required e.g. where there are compulsory measures of care.

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 agreed that the provision of information and advice should be given a high priority and importance in the Bill however it is suggested that more detailed guidance should be provided on how this should happen based on current good practice. Particular guidance with reference to matters of incapacity and links with Section 12AZA, 13ZA and the AWIA Act would be welcomed. It is vital that provisions do not in any way dilute the powers of the AWI Act.
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?

Further clarity by way of Regulations is welcomed particularly in relation to capacity issues and compulsory measures of care. It is vital that current protective legislation e.g. AWI Act is not diluted and that any groups deemed ineligible are small in number with a clear rationale for this.

Adult carers

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

- Informal care underpins a great deal of community supports and it is recognised that a strong argument for the proposed power to support carers to be replaced by a duty in the Bill could easily be made. However if this were imposed on local authorities the implications for additional funding/resources would be significant and the Government would have to support this.

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?

- This is another area where clarity by way of Regulations is required. This question links to the principles referred to previously and risks, responsibilities and accountability. SDS would suggest that people have the right to employ someone of their own choosing and they, as employer, can decide whether or not to arrange for a disclosure check. However decisions not to complete a disclosure check will potentially influence risk assessments, professional judgement and other legislative responsibilities e.g. adult protection. Given the approach by the Scottish Government, Regulations are required to provide clarity for both the local authority and SDS recipients.

Financial Memorandum

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

- As noted previously, SDS requires transformational change. Whilst the Government’s approach seems reasonable, there are concerns over whether the funding is sufficient to cover the transition costs. For example, as service users start to make their own choices, dual running costs may arise (it may be that services currently provided by councils may be provided by third parties, but the council is left with running costs until the facilities can be fully closed down).

It is unclear whether these costs may work through the system within the 2012-15 spending review period. It may take longer for these changes to be implemented. Councils are also at different stages of
SDS implementation and local contracting arrangements. In Fife we have yet to gather clear evidence of the potential level of demand for services different to those currently provided. It is therefore suggested that further detailed consideration is required regarding the appropriate level and duration of funding. The potential for a reduction in housing benefit income should also be taken into account.

- Fife Council participated in the costing exercise undertaken by Stirling University on behalf of the Scottish Government. The costs gathered in Fife at this time primarily related to direct payment arrangements (which had been embedded for 12 years) as Fife were at an early stage with SDS. It is suggested that Stirling University repeats this exercise within 2 years as SDS progresses and calculations will then truly reflect actual SDS implementation and inform long term financial expectations.

**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?

- Yes, satisfied that the Scottish Government is best placed to ensure that all appropriate assessments are undertaken and outcomes are fully considered to inform these matters. It is noted that an EQIA has been undertaken and the Scottish Government confirms that SDS implementation ought to ensure enhancement of rights afforded to individuals.

**Other matters**

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

- The SDS Bill should link in more strongly with the agenda for integrating health and social care initially for older people. As joint budgets are established for this growing sector of the population, clear guidance needs to be given on how and who to manage SDS for these individuals. As there are many synergies between the SDS and integration agenda, there is an excellent opportunity for both policies to enhance each other if implemented in a co-ordinated and integrated way. There will clearly be a role for health authorities in this which is not reflected in the draft Bill as it stands.

Fife Council
8 May 2012