

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

Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 27

Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 1

Neil Bibby

30 In section 1, page 1, line 21, at end insert—

<() In carrying out its functions under sections 22 to 24 of the 1995 Act in relation to a particular child, a local authority must take a child centred approach which specifically reflects the child's needs and wishes.>

Jim Hume

31 In section 1, page 1, line 21, at end insert—

<() A local authority must recognise carers as key partners in the assessment of the needs of persons being cared for and the provision of services for such persons.>

Jim Hume

32 In section 1, page 1, line 21, at end insert—

<(4A) Subject to the wishes of the person being cared for—

(a) a carer must have as much involvement as the carer wishes in relation to the matters mentioned in subsection (4B), and

(b) a local authority must collaborate with a carer in relation to those matters.

(4B) The matters are—

(a) the assessment of the needs for services of the person cared for, and

(b) the provision of services for the person cared for.>

Jim Hume

33 In section 1, page 2, line 13, at end insert <

() “carer” means any person who provides, or intends to provide, care on a regular basis for another person (but does not include a person who provides, or will provide, the care in question by virtue of a contract of employment or other contract or as a volunteer for a voluntary organisation).>

Section 1A

Michael Matheson

- 14 In section 1A, page 2, line 16, leave out <have regard to> and insert <take reasonable steps to facilitate>

Michael Matheson

- 15 In section 1A, page 2, line 18, after first <the> insert <right to>

Michael Matheson

- 16 In section 1A, page 2, line 19, leave out <desire> and insert <right>

Section 2

Jim Hume

- 34 In section 2, page 2, line 36, leave out <may> and insert <must>

Section 3

Michael Matheson

- 17 In section 3, page 3, line 10, after <and> insert <, where it is provided by someone other than the authority,>

Michael Matheson

- 18 In section 3, page 3, line 18, after <and> insert <, where it is provided by someone other than the authority,>

Dr Richard Simpson

- 6 In section 3, page 3, line 28, at end insert—
<() In calculating relevant amounts, a local authority must not apply any automatic assumption that the provision of support under Option 1 or Option 2 will cost less than the provision of support under Option 3.>

Section 4

Dr Richard Simpson

- 7 In section 4, page 4, line 13, at end insert <, and
() in any case where the relevant amount for one or more of the options for self-directed support from which the authority is giving the person the opportunity to choose is less than the relevant amount for one or more of the other such options, the reasons for the difference (in writing).>

Section 5

Bob Doris

- 19 In section 5, page 4, line 26, leave out from <, because> to <matters> in line 29 and insert <the supported person falls within subsection (1A)>

Bob Doris

- 20 In section 5, page 4, line 30, at end insert—
- <(1A) A supported person falls within this subsection if—
- (a) because of mental disorder, the supported person would benefit from receiving assistance from another person in relation to making decisions about relevant matters,
 - (b) because of difficulties in communicating due to physical disability, the supported person would benefit from receiving assistance from another person in relation to communicating decisions about relevant matters.>

Bob Doris

- 21 In section 5, page 4, line 38, leave out <having an interest in the care of> and insert <who are able to assist>

Dr Richard Simpson

- 8 In section 5, page 4, line 38, after <person> insert <who the authority considers are suitable to assist the supported person in making decisions about relevant matters,>

Bob Doris

- 22 In section 5, page 4, line 40, at end insert <or, as the case may be, communicating decisions about relevant matters>

Dr Richard Simpson

- 9 In section 5, page 4, line 40, at end insert—
- <() In identifying a suitable person to involve in assisting the supported person under subsection (4), the local authority—
- (a) must be satisfied that—
 - (i) there is no reason to believe that the supported person will come under undue influence in—
 - (A) agreeing to the involvement of that person in the provision of assistance, and
 - (B) selecting an option for self-directed support under section 3, and
 - (ii) the person is sufficiently aware of the supported person's circumstances and condition and the requirements for assistance arising from those circumstances and that condition, and
 - (b) must have regard to—

- (i) the accessibility of the person to the supported person,
- (ii) the ability of the person to assist the supported person in the decision-making process,
- (iii) any likely conflict of interest between the person and the supported person, and
- (iv) any likely undue concentration in the person of power over the supported person. >

Section 6

Dr Richard Simpson

- 10** In section 6, page 6, line 13, at end insert <, and
- () in any case where the relevant amount for one or more of the options for self-directed support from which the authority is giving the person the opportunity to choose is less than the relevant amount for one or more of the other such options, the reasons for the difference (in writing).>

Section 7

Dr Richard Simpson

- 11** In section 7, page 6, line 41, at end insert <, and
- () in any case where the relevant amount for one or more of the options for self-directed support from which the authority is giving the person the opportunity to choose is less than the relevant amount for one or more of the other such options, the reasons for the difference (in writing).>

Section 8

Michael Matheson

- 23** In section 8, page 8, line 18, at end insert—
- <() in any case where the authority considers it appropriate to do so, information about persons who provide independent advocacy services (within the meaning of section 259(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)).>

After section 8

Michael Matheson

- 24** After section 8, insert—
- <Provision of information: children under 16**
- (1) This section applies where under section 7 a local authority gives an appropriate person an opportunity to choose one of the options for self-directed support.

- (2) The authority must, in so far as practicable and taking account of the maturity of the child, give the child to whom the support is to be provided an explanation of, and information relating to, the nature and effect of each of the options for self-directed support.
- (3) The authority must give the explanation and information in such manner and form as is appropriate to the needs of the child to whom they are given.
- (4) In this section “appropriate person” has the same meaning as in section 7(9).>

Drew Smith

1 After section 8, insert—

<**Advocacy**

- (1) Every person who has under section 4, 6 or 7 been given by a local authority an opportunity to choose one of the options for self-directed support has a right of access to independent advocacy.
- (2) Each local authority must—
 - (a) secure the availability of independent advocacy services to those persons mentioned in subsection (1), and
 - (b) take appropriate steps to ensure that those persons have the opportunity of making use of those services.
- (3) In this section “advocacy services” and “independent” have the meaning given in section 259 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13).>

Section 13

Jackie Baillie

2 In section 13, page 10, line 11, at end insert—

- <(k) establishing a scheme for the regulation of the quality of support provided by persons who—
 - (i) provide support to which a direct payment relates, and
 - (ii) by virtue of falling within the exception to the meaning of “support service” in paragraph 1(2)(c) of schedule 12 to the Public Services Reform (Scotland) Act 2010 (asp 8), are not otherwise subject to the registration requirement under section 59 of that Act.>

Section 15

Bob Doris

25 In section 15, page 10, line 31, leave out from <, because> to <assessment> in line 34 and insert <the supported person falls within subsection (1A)>

Bob Doris

26 In section 15, page 10, line 35, at end insert—

- <(1A) A supported person falls within this subsection if—

- (a) because of mental disorder, the supported person would benefit from receiving assistance from another person in relation to the carrying out of the assessment,
- (b) because of difficulties in communicating due to physical disability, the supported person would benefit from receiving assistance from another person to communicate in relation to the carrying out of the assessment.>

Bob Doris

- 27 In section 15, page 11, line 4, leave out <having an interest in the care of> and insert <who are able to assist>

Dr Richard Simpson

- 12 In section 15, page 11, line 4, after <person> insert <who the authority considers are suitable to assist the supported person in making decisions in relation to the carrying out of the assessment,>

Bob Doris

- 28 In section 15, page 11, line 7, at end insert <or, as the case may be, communicating in relation to the carrying out of the assessment>

Dr Richard Simpson

- 13 In section 15, page 11, line 7, at end insert—
- <() In identifying a suitable person to involve in assisting the supported person under subsection (3), the local authority—
 - (a) must be satisfied that—
 - (i) there is no reason to believe that the supported person will come under undue influence in agreeing to the involvement of that person in the provision of such assistance, and
 - (ii) the person is sufficiently aware of the supported person’s circumstances and condition and the requirements for assistance arising from those circumstances and that condition,
 - (b) must have regard to—
 - (i) the accessibility of the assistant to the supported person,
 - (ii) the ability of the assistant to assist the supported person in the assessment process,
 - (iii) any likely conflict of interest between the person and the supported person, and
 - (iv) any likely undue concentration in the person of power over the supported person.>

Section 16

Jackie Baillie

- 3 Leave out section 16

Section 17

Nanette Milne

29 In section 17, page 12, line 3, at end insert—

<(2) For the purpose of making available to supported persons a wide range of support when choosing options for self-directed support, a local authority must, in so far as is reasonably practicable, promote—

(a) a variety of providers of support, and

(b) the variety of support provided by it and other providers.

(3) In subsection (2), “supported person” has the meaning given by section 3(2).>

Section 20

Jackie Baillie

4 In section 20, page 12, line 28, after <12> insert <, 13(2)(k)>

Jackie Baillie

5 In section 20, page 12, line 31, after <12> insert <, 13(2)(k)>

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