The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

HEALTH AND SPORT COMMITTEE

Tuesday 22 May 2012

Session 4

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HEALTH AND SPORT COMMITTEE

17th Meeting 2012, Session 4

CONVENER

*Duncan McNeil (Greenock and Inverclyde) (Lab)

DEPUTY CONVENER

*Bob Doris (Glasgow) (SNP)

COMMITTEE MEMBERS

*Jim Eadie (Edinburgh Southern) (SNP)
*Richard Lyle (Central Scotland) (SNP)
*Fiona McLeod (Strathkelvin and Bearsden) (SNP)
*Nanette Milne (North East Scotland) (Con)
*Gil Paterson (Clydebank and Milngavie) (SNP)
*Dr Richard Simpson (Mid Scotland and Fife) (Lab)
*Drew Smith (Glasgow) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Peter Brawley (Scottish Personal Assistant Employers Network)
Florence Burke (Princess Royal Trust for Carers)
Callum Chomczuk (Age Scotland)
Noni Cobban (United Kingdom Homecare Association)
Aidan Collins (Scottish Association for Mental Health)
Pam Duncan (Independent Living in Scotland Project)
Dee Fraser (Coalition of Care and Support Providers in Scotland)
Angela Henderson (Scottish Consortium for Learning Disability)
Brian Houston (Barnardo’s Scotland)
Ranald Mair (Scottish Care)
Michael Matheson (Minister for Public Health)
Dr Will Munro (Food Standards Agency)
Jim Pearson (Alzheimer Scotland)

CLERK TO THE COMMITTEE

Douglas Wands

LOCATION

Committee Room 1

Scottish Parliament

Health and Sport Committee

Tuesday 22 May 2012

[The Convener *opened the meeting at 09:38*]

Subordinate Legislation

Food Protection (Emergency Prohibitions) (Dalgety Bay) (Scotland) Order 2012

The Convener (Duncan McNeil): Good morning and welcome to the 17th meeting in 2012 of the Health and Sport Committee. Everyone present should turn off their mobile phones and BlackBerrys, as they often interfere with the sound system. We have received no apologies.

Our first item is an evidence session with the Minister for Public Health on an emergency Scottish statutory instrument. Members have received a cover note setting out the purpose of the order, which came into force on the day that it was laid. As an emergency instrument, it will cease to have effect after 28 days, beginning on the day on which it was made, unless it is approved by the Scottish Parliament. The Subordinate Legislation Committee has not drawn the order to the Parliament's attention.

I welcome to the meeting Michael Matheson, the Minister for Public Health, and his officials: David Wilson, solicitor at the Scottish Government, and Dr Will Munro, policy adviser at the Food Standards Agency. Minister, I invite you to make a brief opening statement on the order but ask you not to move the motion at this point.

The Minister for Public Health (Michael Matheson): Thank you for the invitation to appear before the committee, convener. First of all, I apologise for my late arrival—I was caught up in an accident on the motorway.

I welcome the opportunity to discuss this order, which reinforces existing precautionary advice and signs at Dalgety Bay advising people not to remove items, including seafood and bait, from the area because of radioactive contamination. Radium-contaminated items have been detected on the local beach since 1990 and are believed to have arisen from material dumped in the coastal area around Dalgety Bay when the former Donibristle military airbase was in operation. The Scottish Environment Protection Agency's recent monitoring has revealed the presence of more and more radioactive particles, possibly as a result of coastal erosion exposing previously hidden deposits of radium contamination. In total, more than 2,000 items have now been recovered.

Initial studies on recovered particles show that some break down easily and others would be soluble in the human gut. However, some particles could be taken up by seafood, particularly winkles and mussels, which could pose a risk to the public if consumed. Although there is no commercial fishing or shellfish industry in the Dalgety Bay area, the FSA is aware that people have been observed gathering shellfish either for consumption or for use as bait. In light of the potential risk, the FSA carried out a radiological dose assessment based on data from the solubility studies that indicates that an ingested particle could result in a dose well in excess of the annual allowable dose. Although the chances of a particle being taken up by seafood are expected to be low, that is uncertain because there is not enough information to allow such calculations to be carried out. Several factors need to be considered, including the increase in particle discoveries, their higher activities, their ability to break into smaller fragments, recent coastal erosion and the dynamic nature of the coastal environment.

The programme of work that SEPA and the Ministry of Defence have agreed to investigate the contamination at Dalgety Bay should be completed by May 2013, and the FSA will review the need for the order in light of new data emerging from that work as well as data from seafood sampling that is being undertaken jointly by the FSA and SEPA. The order will also be reviewed if remedial works that are subsequently undertaken successfully remove the pathway by which particles can enter the food chain.

The Convener: I thank the minister for those opening remarks. Do members have any questions?

Bob Doris (Glasgow) (SNP): Minister, you said that SEPA and the MOD hope to have completed by May 2013 further investigations into the remedial works that could be carried out. Has there been any agreement on who should bear the burden of those costs? After all, most reasonable people would expect that burden to fall on the MOD, given that its former airbase caused the contamination in the first place.

Michael Matheson: Agreement had to be reached with the MOD about the need for action to be taken. Will Munro will comment on the precise nature of that agreement but, at this stage, we must ensure that the appropriate action is taken to assess the extent of the contamination affecting the area around Dalgety Bay.

Dr Will Munro (Food Standards Agency): The plan that was agreed between the MOD and SEPA is being funded by the MOD and seeks to characterise the extent and kind of contamination in the area through mapping, digging pits and so on. The intention is to come up with recommendations for any necessary remediation by May 2013. As far as I am aware, the MOD has not admitted any liability, but it will pay for the works that are being undertaken and SEPA has reserved the right to invoke the radioactive contaminated land regulations if at any point the plan does not go according to its wishes.

09:45

Bob Doris: Would it be possible for the committee to be kept up to date about on-going discussions in that respect? I note from our papers that another instrument will have to be laid before the committee within a year if the ban in the area is to be extended. Of course, we do not want the ban to be open ended and we want some certainty and a resolution. I will support the order this morning, but it would be good to be kept up to date on the discussions with the MOD.

Michael Matheson: As I have said, we will keep the order under frequent review because of the work that is being undertaken and there will, at the very least, be another review in a year’s time. I am more than happy to inform the committee of any review that is carried out and what its findings highlight, if that would be helpful.

Bob Doris: Thank you.

The Convener: You said that there is no commercial fishing in the area. Does the prohibition affect recreational fishing? You mentioned people gathering bait, so I presume that they also fish in the area. Will they be prevented from doing that?

Michael Matheson: Yes. The ban will apply to people gathering bait or mussels, cockles and so on for their own personal use. The prohibition order is required because, despite the advisory signs that have been put in place, people have been observed at this activity, and we need to be able to enforce the provisions and take action if people continue to collect bait, mussels or whatever on the site.

The Convener: How will you stop someone with a rod going down on to the beach? Who will enforce the provisions?

Michael Matheson: Ministers will give powers to enforcement officers at Fife Council to enforce the provisions under the order and to take action against individuals, which might result in their being reported to the police if that is felt to be necessary or appropriate. The powers in the order allow for someone who breaches it to be fined.

The Convener: As members have no other questions, we move to formal consideration of motion S4M-02866, in the name of the minister, on recommending approval of the order.

Motion moved,

That the Health and Sport Committee recommends that the Food Protection (Emergency Prohibitions) (Dalgety Bay) (Scotland) Order 2012 be approved.—[*Michael Matheson.*]

Motion agreed to.

The Convener: I thank the minister and his officials for their attendance.

09:47

Meeting suspended.

09:49

On resuming—

Mental Health Tribunal for Scotland (Practice and Procedure) (No 2) Amendment Rules 2012 (SSI 2012/132)

The Convener: Item 3 is consideration of SSI 2012/132. Members have received a covering note that sets out the purpose of the instrument. The Subordinate Legislation Committee has not drawn the instrument to the Parliament's attention. As members have no comments, do we agree that we do not wish to make any recommendation on the instrument?

Members *indicated agreement.*

Social Care (Self-directed Support) (Scotland) Bill: Stage 1

09:49

The Convener: Item 4 is our third oral evidence session on the Social Care (Self-directed Support) (Scotland) Bill. I welcome Dee Fraser, programme manager for providers and personalisation with the Coalition of Care and Support Providers in Scotland; Ranald Mair, chief executive of Scottish Care; Peter Brawley, director and manager of the Scottish Personal Assistant Employers Network; and Noni Cobban, vice-president of the United Kingdom Homecare Association. Our first question is from Fiona McLeod.

Fiona McLeod (Strathkelvin and Bearsden) (SNP): Good morning. I will go straight to an issue that I have explored in several oral evidence sessions: the employment of personal assistants. All the witnesses have more direct knowledge of the issue than many of our previous witnesses have had. In reading your submissions, I was struck by the worry that the ability under self-directed support for people to employ a personal assistant directly might lead to a two-tier care system, because if personal assistants are not employed through an agency, they do not come under the regulation of the Scottish Social Services Council. How could we move towards regulating personal assistants who are outwith the employment of agencies to ensure that we do not have a two-tier system? We would be putting constraints on the ability of individuals to employ whom they wish to employ, but we need to ensure that the workforce is regulated and inspected.

Peter Brawley (Scottish Personal Assistant Employers Network): I will start. I hope that members can hear me okay, because I cannot reach over and pull in the microphone.

I am the director and manager of the Scottish Personal Assistant Employers Network—the hint about what we do is in the title. Disabled people such as me have been employing personal assistants for many years and very effectively, in the main. Personal assistants have the same rights as any other employee in the country. Disabled people, or those assisting them, who employ personal assistants have the same responsibilities as the captains of industry have to ensure that their workforce is adequately trained and paid and treated fairly and equitably.

For the past 11 years, our organisation has been working on that. I read the papers before I came to the meeting and I am concerned about some of the myths that still surround the employment of personal assistants. In the main, the process works well, but one drawback arose in the past few years when the system changed from the disclosure system to the protecting vulnerable groups—PVG—scheme. Our organisation had in place a system through which we helped people to access the disclosure system. We were an umbrella organisation and we remain so under the PVG scheme. The reason why we became an umbrella organisation was that disabled people are not corporate or unincorporated bodies and therefore could not access enhanced disclosures through the central registered body in Scotland, which is based in Stirling.

In effect, we allowed disabled people who were employing personal assistants to access enhanced disclosures and we gave them support to effectively recruit, monitor and evaluate the people who were going to work in their home. We still do that to an extent. Under the PVG scheme, disabled people, who are not corporate or unincorporated bodies, still cannot go to Disclosure Scotland as an employer can. They now have to ask the person whom they want to employ if they will volunteer to register for the PVG scheme. As an employer, I do not need them to register but, to me, that is a false premise. I do not want regulation for personal assistants—I will explain that later if I get the opportunity. However, like other people, I want to know that I have done everything possible to ensure that I know about the people who are going to come into my home to support me at the most crucial times of day—I want to know their records and where they come from. I want to make a fully informed decision about who comes into my home.

I am a vulnerable adult under the PVG scheme, but we are talking about equal citizenship and the right to act freely in our society. Right now, the PVG scheme does not afford me that opportunity if it is foisted on me that I need to have people who are registered with the scheme. That is not a problem, but what we do not seem to be able to do now, because there are costs attached to it, is get the equivalent of an enhanced disclosure. Local authorities do not want to pay the extra money for organisations such as SPAEN to take that role on and have the person come directly to us, although we could give people the confidence that, when they recruited, they would have a good idea about the crimes that people may have committed when they were younger and would be able to make a decision on that basis. That is not the only factor in the decision, but it is in line with safe recruitment practice.

I think that I have said enough.

The Convener: Does anybody else want to respond?

Ranald Mair (Scottish Care): I will make two or three quick points. I support and agree with Peter Brawley’s right to choose and control who comes into his house. However, there are issues to do with how we maintain professional standards. We need to upskill the social care workforce as we maintain more people in their own homes so that they can retain their independence and quality of life. If we are to do that successfully, we must ensure that we have a fully skilled workforce.

As well as a skills and standards agenda, there is also a safety agenda. I would not want anybody to be exploited as a by-product of the fact that we have tried to give people more power and control—that would be a downside to self-directed support. We must look at how we can bring PAs within the scope of some elements of regulation without restricting the scope of individuals to choose and have control. That would ensure both safety and standards, and PAs would have access to continuing professional development. We would not have unlicensed nurses out there; there are professional standards to be maintained, and that is true of social care workers as well. This is not about diluting social care and saying that we do not need standards and regulation; this is about maximising choice and control for people who use services.

The strategic agendas to do with upskilling and ensuring safety remain. It is not beyond us to come up with something that manages to strike the right balance.

Dee Fraser (Coalition of Care and Support Providers in Scotland): We recognise that people should be allowed to employ whom they wish. We understand the impulse behind that in the bill, but our concern is that individuals must be sufficiently resourced to be able to choose between quality-assured, regulated and therefore more expensive third sector or independent sector providers and PAs. Our concern hinges on whether people will have enough money to make a real choice on the issue.

Noni Cobban (United Kingdom Homecare Association): As a citizen, I am fully in agreement with Peter Brawley. If I were in his position, I would be exactly where he is. However, in my role in an organisation representing the sector, I must take a wider view than my personal view.

The UKHCA operates a disclosure service that it could develop—it is proposing to do so—to enable people to secure PVG clearance for individuals as well as for organisations. The organisation has the scope and the infrastructure to respond to that.

10:00

I support everything that Ranald Mair said about standards and safety. That is critical. A number of years ago, I did some work at the University of Stirling on developing a system of licensing social care workers. We called the licence the home care practice licence, and the approach was modelled on the driving test. A person would learn the theory, take a theory test and then there would be practical observation. The person would either pass and carry a licence or fail. Unfortunately, that model was not seen in the educational and training system as fitting within the upskilling work that was going on to professionalise the workforce, but it would be quite readily adaptable to engage with large numbers if we move from the way in which PAs have been employed for a number of years by disabled people.

If we are talking about the whole social care market, there is a large number of older people and there are concerns about their accessing direct payments. I am fully in favour of people having choice and control and think that we should do everything that we can to make exercising choice and control easier for people, which will greatly increase the numbers involved and therefore increase the risks. However, we would not employ a chauffeur if they did not have a driving licence, and whether they do have one is easy to check with the Driver and Vehicle Licensing Agency. From the research that I did at the time, such a model for large numbers of people would not be hugely expensive and would be quite achievable even in rural districts of Scotland.

I simply put that model on the table. It has sort of gone to bed, so somebody would need to revitalise it, but I still think that it is useful.

The Convener: Does Mr Brawley want to respond to some of the comments that have been made before Fiona McLeod comes back in?

Peter Brawley: Yes, please. I want to clarify what we are doing.

What is a personal assistant? Can I be given a personal assistant’s job description? The answer to that question is no, not really. A personal assistant can go into somebody’s home and assist them. Perhaps they can open their mail and help them to do their business. Perhaps they can make a wee bit of breakfast or whatnot. The range of people can go right through to those who have quasi-medical qualifications so that they can deal with the extreme nature of a person’s impairments, but the fundamental moral and ethical issue is that the non-medicalisation of personal care is involved.

Our organisation and other user-led organisations have looked at and are very aware of the needs of our workforce. A couple of years ago, our organisation ran a course for personal assistants in conjunction with Coatbridge College, which was underwritten by European funding. What I am saying is that, at the base or entrance point, I do not need a medical practitioner to come into my house in the morning to assist me to get my clothes on. That is a waste of a professional’s time. I need someone who is empathetic to my situation, has a bit of common sense and can understand my needs. I will train them as well as I can—there will be assistance training and so on.

I want my workers to have the opportunity for personal development, as a PVG scheme member will have a licence to work in other social work areas. I did not say that earlier. On the basis of that principle alone, I want to encourage my personal assistants to develop themselves personally, because I will not last for ever or they might get fed up and want to go somewhere else, as we all do when we are fed up with our job. That is crucial.

There is the fundamental idea that a personal assistant must be a professional. I mean no disrespect to professionals, but I do not need a professional in my home, and neither does anybody else. However, I appreciate that my worker might want to develop to become a professional, and I fully and whole-heartedly support their doing so. I say that on behalf of the independent living movement.

Fiona McLeod: It has been very interesting to hear all the different thoughts on that matter. I will not put my question directly to Mr Brawley, but I want to consider the development opportunities for individuals, which is exactly what he spoke about latterly. To echo what Ranald Mair and Noni Cobban said, it is not about a medicalised professional organisation; it is about a regulated profession, for want of a better phrase.

If there is a regulated way of employing personal assistants, does that make it much easier to allow people to employ family members? That seems to be the intent behind the bill, but the likes of the Association of Directors of Social Work have informed us that it would still be only under exceptional circumstances. My thought process is that, if regulations govern the skills of personal assistants and their ability to operate safely, anybody can be a personal assistant, whether or not they are a family member. Does that sound logical to the panel?

Peter Brawley: The family member would become an employee and, as soon as they become an employee, there is an employer-employee relationship, which changes the whole picture. I know that there will be exceptional circumstances, although I do know what the benchmark is for an exceptional circumstance. However, from our experience over many years—nationally and internationally—we would say that it would need to be an extremely exceptional circumstance.

Independent living is about the person who needs the service. Please believe me that, in the past—I am not being disrespectful to all family members—in some family units the barrier to independent living has been within the family, because of the income that the disabled person brings in and the fact that there is a new mobility motor at the front door every three years. Seriously, that is a barrier. I would not say that if it was not true.

The idea of independent living is that somebody who needs support should be able to live independently outwith the family unit. They are part of the family, but they should not be a burden to the family. The bill refers to care. People need care but, more important, they need support. I do not need care. I like to be cared for in general terms and I hope that you all care for me as a fellow human being, but I do not need your care. I need your support when I need practical things to be done. That is a fundamental principle behind what we are trying to achieve. I am not knocking the opportunity for some family members to be employed in exceptional circumstances, but so far nobody has come up with a very good exceptional circumstance.

Ranald Mair: The current system of care relies heavily on large amounts of informal care or unpaid care being provided by family members. Perhaps one reason for the equivocation on the issue is that we do not want to lose that unpaid care.

It is right that we have to look at how we ensure that carers are fully supported, and one aspect of SDS is to enhance the support for carers. That should include, where it is appropriate, the employment of family members. I have a terribly dysfunctional family and I would not want any of them near me. However, individuals have the right to say that a family member is the person who most understands their needs, who is most available to them and who not only provides care as a relative but does a quasi-job of work so there is scope for them to be remunerated. When that happens, there must be some element of oversight. That is about non-exploitation.

I am concerned that unscrupulous relatives might see that they could control direct payments and personalised budgets. It is about the safeguards that we build in so that there can be choice. It is not about not giving the choice; it is about considering what safeguards we need to ensure that the exercise of choice does not lead to exploitation of any kind.

Noni Cobban: I agree with everything that has been said. We are talking about a hugely complex issue. I support what Peter Brawley said.

There is a wide range of potential situations, but if we are serious about personalisation, flexibility and helping people to lead their lives, there should not be too many barriers in the way of dealing with circumstances—I will not say “an exceptional circumstance”, although I think that social services use that phrase. Every individual has their circumstances. It might be that a family member is appropriate; it might be that a family member is not the person’s first choice, as Peter Brawley said. In a rural community, the issue is bound to crop up, and Scotland is a very rural country. It is about preventing putting barriers in the way of true personalisation and enabling people to employ the person of their choice who can best meet their needs.

On behalf of home care providers, I will say that good work between providers, families and users could enable organisations to give support in times of holidays and illness or at short notice. There does not need to be an either/or situation, as long as the person has someone on whom they can call if their personal assistant is unable to do their job while they are sick or on holiday. The sector ought to strive together to get the best outcome for the person who needs support—support at home, in the case of my organisation.

Peter Brawley: A family member who looks after someone in their own home does not need to be a PVG scheme member; those people are excluded from the scheme. The Protection of Vulnerable Groups (Scotland) Act 2007 also talks about people who are working for no commercial benefit. I am just suggesting that people who have had a caring role for a long while might think that it is a matter of getting paid to do the caring.

Believe me, the salient point is that the person who needs support is adequately assessed and is given appropriate support under SDS options 1, 2, 3 or 4. If the person is properly assessed and given the resources to ensure that their support is in place, the need for the caring role diminishes. Yes, there will still be interaction with the family member, but the person will not be a burden to their family.

This is not the place to talk about my experience when I was young, but I will say this: my father worked 12 hours in a brickworks, six days a week and, when he got home, he had to take on a caring role to support my mother, who had multiple sclerosis. Unfortunately, my mother landed in a geriatric hospital when she was 44 years of age, and it was there that she died.

What I am saying is that a proper, funded package to support the person at home frees up the person who has been the major carer. That is the fundamental principle of what we are trying to do. Carers definitely need emotional support and every other kind of support; now they are wanting financial support. How do we double-budget in the one household—whatever the cost of caring will be? The founding principle is about adequately funding the person who needs the support, and then watching the situation blossom.

Nanette Milne (North East Scotland) (Con): Ms Cobban's comment about outcomes leads neatly to my question. The whole point of the bill is to try to secure better lives for people who need support. It is crucial that we focus on outcomes, rather than on SDS itself, which is just the tool to achieve outcomes. What are the panel's views on how good outcomes can best be achieved, and how they can be monitored?

10:15

Noni Cobban: It starts with the individual—that is self-apparent—and their assessment, and working with them, possibly involving a multi-disciplinary team or a group of people, to seek out what they are looking for and what would help them most in terms of supporting their lives.

I realise that the legislation extends into other settings, but when I speak, I am always talking about care in the home. My personal experience started off in home care in Edinburgh before the Community Care and Health (Scotland) Act 2002, when home care was mainly driven by people with independent means who could purchase a service. It was clear then: people approached you, you had a conversation with them about how you could best help them, and as they had their own resources they could absolutely control how and when you did what you did. Your relationship was directly with that individual and their household, and you worked together.

In the main, the outcomes were excellent. Obviously, there were times when they were not quite so excellent, but people had the freedom then to go out to the market to look for someone else. If people are going to be in charge of their own affairs and have the resources to do so, there must be providers for them to call on. The first principle is not about supporting businesses to run businesses, but the choices of the individual are limited if there are no businesses. We need to strike a fine balance.

If people receive the resources to make their own decisions, things can be exactly as they want them to be. At the moment, spot contracts—which most of our members in Scotland are involved in, although there are a few block contracts—are controlled by the care manager, not the service user and service provider. Even a minor change of time or day—for example, when a service user's daughter comes to take them out for lunch—must be agreed by making a phone call to the care manager. That is cumbersome and does not give the provider and the individual the opportunity to have a proper purchaser-supplier relationship, which should be short, tight and more easily dealt with. A good outcome would be one in which, once decisions have been taken, somebody is able to manage—and chooses to manage—their own resources to purchase their care. There would then be that relationship between the provider and the person, with the funding authority only being involved in the external review system. That would improve outcomes, in my opinion.

Dee Fraser: I very much agree with what Noni Cobban says about the move meaning that it will be primarily for the individual to understand and make decisions on outcomes. Individuals will need to know whether a provider will make the change or difference that they want to see in their life. The question for us, as providers, is whether we communicate outcomes to individuals. At the moment when we communicate outcomes, we communicate them up to funders.

Within this process, we have a great opportunity to address difficulties in the system around reporting and monitoring that exist for commissioners, purchasers and providers. A conservative estimate is that it costs the Scottish voluntary sector about £450 million a year to report and monitor. We have a great opportunity to see whether we can achieve outcomes that are proportionate and relevant—rather than input focused—and useful for everyone. To do that is quite tricky, and we will need to move away from our input-driven system.

The question is complex and I do not have much time to talk about it today, but substantial learning can be taken from the discretionary funding sector about how things can be done, and how it is perfectly possible to draw a line from the individual outcome to the provider outcome, to the local authority outcome, and from there to the national outcome. I would be happy to share with the committee some written material on that, if that would be of interest to you.

Nanette Milne: That would be helpful.

Ranald Mair: The planning of care needs to be qualitative—it should be focused on outcomes, which should be largely about an individual's quality of life. If my quality of life involves going to see Kilmarnock on a Saturday afternoon and watching them lose on a regular basis, it should be possible for that to be part of my care plan.

However, inputs cannot be ignored altogether. There is a quantitative element. A calculation has to be made about how much time it will take to deliver a particular outcome and what resource will be required to achieve it. We cannot ignore inputs altogether. There is a danger that the rhetoric is moving in the direction of everything being about achieving outcomes. A contract cannot simply say, “Go and deliver this outcome for this individual.” From a provider perspective, I need to know how many people I will need to employ and for how long to deliver on that. Such a calculation still needs to be done, and adequate funding and adequate resource need to be available to deliver the outcome.

It is correct that we are pursuing a personalised outcomes agenda and giving control to the individual—that is exactly what we need to be doing—but we must also ensure that we are doing the sums right so that we can resource the individual and the provider to achieve those outcomes. The danger is that, by talking about outcomes and not talking about inputs, we might look to save costs and people might be left with a budget that is insufficient to allow them to achieve the outcomes that they want. We must balance the outcomes and the resourcing.

Peter Brawley: I like to call what we are talking about creating a business plan for life. It is true that the process operates on a commercial basis. You are allocated the number of hours that you need support for, you are allocated a unit cost for that and then you are given your budget, which you have to work within to maximise your outcomes. I am a wee bit lost about that. I have been using self-directed support, direct payments and the independent living fund for a long while and my outcome is the fact that I managed to come to speak to the committee today because I was in control of when I got up this morning and what time someone came in to help me. My PA is with me to support me while I am here. That is my outcome.

The process does not take over my life, but I know that what I need to do at the end of the month when I report back to North Lanarkshire Council and the independent living fund is to give them a breakdown of how my money has been spent. The way I spend my money is dead simple—I use it to employ personal assistants. My contribution to society is that I take responsibility for managing my own support. I manage the public purse to the best of my ability, and I have given people the opportunity to be employed, to learn things and, I hope, to get some personal development. At the end of the quarter, the end of the year or whenever my review is, I can report back. The test of whether things have worked will be whether I am still there, I am still at work and I am still getting on with my business.

There is no need to add bells and whistles to all that. I am not a widget; I am human being who needs support. During the war, Churchill said, “Give us the tools and we’ll do the job.” On behalf of disabled people, I ask that we be given the money so that we can get on with our lives and not be seen as a burden. I totally understand the commercial aspect. We are responsible for spending the public pound, we are responsible for the people who work for us and we are responsible for maximising our own potential.

What is that potential? With the advent of self-directed support, young people who are going through the educational system can now plan their outcomes. When they leave school, they will be able to take up a career, go to college or do whatever it is that young people want to do. With the advent of self-directed support, we are giving the young people in our society who are coming behind me and the rest of the us a vision for the future. We are giving people who were traditionally stuck in institutional settings the chance to see that such situations do not need to happen. We can afford the support to keep people in their own homes.

The power of such support is that it is not about disabled people, people who are not well or anyone else who has to use community care services; it is about all of us. After all, none of us knows the time, the hour or the day when we will want to use self-directed support. We are all potential community care service users and have never had a greater chance to make our society a beacon for the world with regard to the support that we can afford people.

Nanette Milne: That was very helpful. I would welcome the written evidence that Ms Fraser has offered.

If individual service users are going to control their own support, there will have to be significant variety in service delivery. How ready are the voluntary and independent sectors to provide services in that diverse way?

Noni Cobban: As far as home care is concerned, the social care sector has developed out of entrepreneurs seeing and responding to local need. Indeed, they are able to respond very rapidly. Sometimes regulation can slow things up—for example, registering with the Social Care and Social Work Inspectorate Scotland can take an inordinate amount of time—but in the main the sector will be able to respond as long as it can survive financially in a period of huge change. If self-directed support causes a massive shift in how contracts are delivered, it might make some organisations vulnerable. It is not a high-margin industry and there is not a lot of fat in the system. Nevertheless, given the huge amount of will to make this work, I think that it can and will work and that people will respond to local need in local communities.

I also hope that the move will lead to the regeneration of smaller businesses. I believe that small is good and that huge means just another big mechanism that does not militate for personalisation. The sector will develop; indeed, it is already working hard on the quality and standards that Ranald Mair referred to earlier.

In the main, our membership is ready to respond to the move, to break down certain concerns about the commercial sector and to ensure that they can work with the people who benefit from self-directed support. The approach will open up new opportunities and ways of doing things, will provide new, different and more imaginative services and will perhaps get us away from, say, having 15-minute slots for getting elderly people up and dressed. I want a situation in which people are referred to a service—or in which the person and the service come together—and in which, as Peter Brawley has suggested, the two of them can decide within a week how the needs in question might best be managed within the budget. The aim is to ensure that the user and the provider directly manage care and that decisions on how and when a slot is bought are not driven from outside.

Ranald Mair: I want to make two or three quick points. First, to prepare for self-directed support, we have an on-going project with the independent sector for which we have received funding from the Scottish Government.

Self-directed support is about not only a change in commissioning relationships by which some older people may become the purchasers and commissioners of their own care, but a culture shift that puts the individual at the heart of the care that is being delivered. People are to be not just recipients of care; they and their choices are to be at the centre. That includes the hard bits—for example, what does self-directed support mean at the end of life? What sort of choices do I want for my last days? There is—correctly-—a lot of focus around independent living, which is how it should be. However, if we are extending self-directed support to encompass the whole range of needs—those of children, adults and older people—to the end of life, we must ensure that our culture of care embraces that.

10:30

The on-going work among providers of home care services and care home services involves a shift of culture towards personalisation, which puts the individual at the heart of care delivery and considers how they can be empowered to have their say, irrespective of whether they take the option to purchase their care. In one sense, the biggest element of self-directed support is not the purchase of care, but the need to ensure that we approach care in the right way.

The good news is that work is going on to prepare the sector in that regard. The hard task is that that involves a radical shift in culture with regard to how we deliver care, rather than simply looking at the technicalities of the way in which care is purchased.

Dee Fraser: We take a slightly different viewpoint in the third sector, which I suppose will make things more interesting this morning.

I run the providers and personalisation programme, which provides support around practice change ahead of the potential enactment of the legislation. Our providers see the change as a logical extension of what they have been doing for years. They see SDS as a heritage in a number of respects; we have heard about the significant heritage in the independent living movement. SDS has its roots in person-centred approaches, which—as many people around the table will know—have been core to our practice for many years.

We see opportunities in SDS for people to extend that control to the level of the market—to the financial level—if that is what they wish to do. It is a significant lever that allows us to think about how we can change the system for the better and make it work better for the individual.

We are worried not so much about cultural change as about systems change, if we are worried about anything with regard to SDS.

Peter Brawley: The whole culture of what we are trying to do goes back to the issue of direct payments, whereby the person who holds the money determines what they want. It will be interesting to see what happens down the line. How do we scope things at this point, when the system is culturally new? Traditionally, if an individual person had an individual budget, as many people will have, they were steered towards certain services; that became custom and practice.

Now the person will have a choice and, when they have a social work review to see whether they will maintain their place in the day centre next season, rather than being scared, they can go into the review and say, “By the way, I know what you’re offering next year, but I’m afraid that there’s another day centre down the road that’s offering services that are more compatible with my way of thinking and what I want to buy. So, thanks very much for the offer inviting me to come back to your day service next year, but I’m not going to—I’m going to buy it from the one down the road”.

We know that some core services will need to be there, but the power will be with the person who will be buying the service. I hope that some scoping work will be done on what exactly people want.

Ranald Mair: I just want to come back in with one point. I do not want to dissent from that, but if I am 90 and suffering from dementia, the principles of self-directed support should still apply to me. I hope that I will have given advance notice of what I want and the styles of care that I would like. In so far as people can still discern my wishes, I would want them to form my care package. However, I might not be able to manage my own budget. By that stage, I might not be saying, “I’m holding the purse and calling the shots.”

We are covering a range of people. Part of the difficulty about having the discussion about self-directed support is that we are talking about children’s services, adult services, services for older people and so on, and we cannot generalise about the preferred options for all people. There will be people for whom the direct payment—which involves managing their own budget and commissioning their own care—will not be the appropriate vehicle, but that does not mean that they fall outside the scope of self-directed support; it just means that, given the way in which the legislation is set out, there must be more of a mix of options in terms of how care is commissioned and paid for.

Nanette Milne: I hope that that is covered in the four choices in the legislation, which go from self-directed care through to a mixture.

Ranald Mair: Yes. The danger is that we might be too focused on the direct payment and employment aspect and not on the principles of self-directed support. I believe that, where possible, empowering people by giving them control of their own budget is the correct thing to do, but I am conscious that there are a lot of people for whom that might not be the preferred option.

Richard Lyle (Central Scotland) (SNP): I know Peter Brawley well, as I am a neighbour of his—I stay about 30 yards from him and have known him for 30-odd years. I respect and agree with most of the points that he has made this morning.

The fact is that the person for whom an individual care plan is set up has a choice. In your situation, Mr Brawley, you have that choice. However, we spoke to a lady a couple of weeks ago in Glasgow who was the main carer for her son and had to make decisions for him, as he could not do so.

Do you agree that everyone will have a choice? Do you also agree that there may be people who employ family members to care for them, and that others will be in the same situation that you are in, and will employ an assistant or assistants? Do you agree that everyone involved can have a piece of the pie—I mean no disrespect—because, basically, the care organisation will provide assistance, young people will be employed by people such as yourself and people across the board can be involved?

The most important thing that we have to remember is that the choice is up to the individual and that that care plan will suit them. I loved the point that you just made that someone who does not want to go to one day centre will go to another. That is what the issue comes back to.

Do you agree that, across the board, there will be a choice for everyone—a choice that some people have never had before?

Peter Brawley: Definitely. The essence of policies such as self-directed support and its predecessor—direct payments—is that the arrangements operate with or without assistance. There has always been a recognition that the system is fine for a self-managing person but that other people will never be able to manage. As has been said—taking on board elderly people and so on—the system is for everybody. The mechanism and the foundation start with the assessment of care, which means that the provision, the structure and what I call the business plan is put into place at that point, so that the components of the business plan fully support the person, whatever their needs.

I always remember that, years ago, the learning disability consortium said that everybody can make a choice, even if that choice is what colour of socks to put on in the morning. Please believe me—I know that I am a bit of a zealot as far as independent living is concerned, but I am a zealot for a reason. I know that it can work, and I know the positive impact that it can have on families. I said that it is for everybody, and I meant it. The question is how we manage it.

Unfortunately, we came from a traditional system in which, if someone needed support, they were allocated it, and they were labelled because they had dementia, muscular dystrophy or a heart condition. There were services primarily to deal with such situations. That is not necessarily the best way in which to support people. Now, there is a bit more flexibility and choice, and the catalyst is how that flexibility and choice will meet the needs of people who need services. There are isolated people who need a wee bit of self-directed support and a wee bit of care, but they are not getting it because of the allocation of scarce resources.

We need to ensure that everybody who applies for self-directed support and qualifies for it gets it. I understand the complexities for people who care for people with dementia and suchlike.

Ranald Mair: I want to pick up on Peter Brawley’s point about the importance of helping people to manage their care, with that element potentially being costed into the care package.

Members will have noticed from the papers that there is a higher uptake of direct payments south of the border than in Scotland, but there is also a growth in the number of care brokers—people who say, “Give me a cut of your care budget and I’ll take on the complex business of being an employer, managing the checks, organising the care and so on.” I am not sure that replacing the current role of local authorities with the work of unlicensed care brokers is a desirable step forward, especially if the cost comes from the budget that the person is given for their care.

We need to consider where people get support and assistance to manage their care. That should be built into the care package, and if there is a cost associated with it, that should be met from money that comes on top of the care budget rather than money that comes from the care budget.

We need to look closely at the associated developments. One might be tempted to say, “It’s great down south—there’s 30 per cent uptake of direct payments”, but there have been some other developments alongside that and they might not be the ones that we want in Scotland.

Dee Fraser: I echo what Ranald Mair said. Core to people having a real choice is that they have effective, independent and independently resourced—that is, independent of their individual budgets—support to draw on to make that decision. Again, we come back to whether the choice is meaningful. Does the person have the information that they need to make the choice? Do they have an independent person to talk to about the choice? Is the market diverse enough for them to have a meaningful choice? The choice operates at those three levels.

Richard Lyle: Mr Mair’s comments relate to my next question. How do we safeguard against what I call the ambulance chasers, who will perhaps think that self-directed support is going to be like payment protection insurance and that they can make some bucks out of it?

Ranald Mair: As you know, I am not always an advocate on behalf of local authorities, but I think that there is a continued role for public bodies in supporting and overseeing support. If the role of local authorities is to be less about direct provision, they should be involved in the task of assessing need and developing packages with people under the principles of self-directed support—either that, or we, with the third sector and other parties, need to look at independent advocacy and support systems.

We have to look at exactly where the assistance will come from. It will preferably come from people who do not have an axe to grind in relation to financial gain from the individual. Of course, there are costs associated with providing a service, which have to be met, but an individual should not be in a situation in which they must negotiate the element of their care budget that will go to a person who provides support and assistance. We should avoid the privatisation of brokerage.

10:45

Peter Brawley: That is true. If I thought that some of my package was going to be sliced off to pay for brokerage, I would want to ensure that as little as possible was sliced off. In relation to administration, the best example that I have come across in recent years is the independent living fund, which supports disabled people throughout the country and is under threat of being shut down. The ILF’s administration costs are about 3 per cent; everything else goes into servicing the person.

We do not want to create another industry. That has happened in the past; a lot of people have made a lot of money out of disenfranchised, disempowered people, and we need to try to get away from that. People will need support, but there are organisations around the country that can help, such as the user-led centres for independent living and the impairment-specific organisations, whose motivation is not to make money but to support people.

One of the best things that I heard recently, at a meeting in Glasgow, was about the role of the advocate. The true advocate is there to support the person, not to see how much money they can make out of them. The people and the support are out there and a lot of good work is going on, but advocacy seems to have been laid to one side a bit and is underresourced. Investment to ensure that advocacy is high profile for the people who need it is good investment. People should be given advice without someone taking a whack off their package in percentage terms, for brokerage.

Jim Eadie (Edinburgh Southern) (SNP): I will ask about regulation of personal assistants before I explore the financial assumptions that underpin the bill.

I do not want to rehearse the arguments that we heard from the panel earlier, which will be useful in informing the committee’s view. However, Mr Mair, when you said that personal assistants should be brought within the scope of some element of regulation, to ensure safety and standards, what did you have in mind? Perhaps the other members of the panel will comment on Mr Mair’s response.

Ranald Mair: It is not about bringing personal assistants into the scope of the Regulation of Care (Scotland) Act 2001. If someone has a personal assistant I do not think that the care inspectorate should be out there visiting them and writing reports about them.

However, we have bodies that oversee occupations, such as the Scottish Social Services Council, the Royal College of Nursing and the Nursing and Midwifery Council. Such bodies ensure standards and safety, so if there is an issue about whether someone is a fit person, someone else is overseeing that.

We could look at whether PAs could fit into any of the current arrangements. That does not mean that they would have to be treated in exactly the same way as social workers, social care workers or nurses are treated. I took Peter Brawley's point about overprofessionalising the system. It is about considering who would oversee and have some responsibility for that occupation group.

It is great that, in an ad hoc way, Peter and others have been involved in developing a course for PAs. If we scale that up across all the potential users of self-directed support, we can see that there might be a need for establishing some sort of national oversight, without creating a heavily bureaucratic or overprofessionalised system. It is about acknowledging that personal assistants may become a distinct occupational group and considering what qualifications, training, support and oversight might be necessary for them and ensuring that the role of personal assistant is recognised as valuable in its own right.

Jim Eadie: How will national oversight—

The Convener: Was your first question just for Mr Mair, Jim? I think that other panel members want to respond.

Jim Eadie: Okay. When they respond, it would be helpful if they could give us ideas about how national oversight could be achieved.

Ranald Mair: Rather than invent another professional body, I would talk to existing bodies, such as the SSSC, to see whether it would be appropriate for them to take oversight under their wing. The Scottish Qualifications Authority might have an interest in a training and qualifications agenda. I would have an open mind on who took on the issue. However, if we view PAs as an important plank in the process—rather than somebody wanting to be a PA because they live down the road from a person who needs one, or because they are a member of that person's extended family—we need to encourage people to consider the PA role as a career choice. In that case, we will need a body to oversee that career.

I am sorry that I am not being sufficiently helpful to Jim Eadie in saying which body should provide oversight of the PA role. We should consider whether that could be done by an existing public body or whether we need to create a specific body. However, there should be a framework in that regard.

Peter Brawley: Perhaps somewhere down the line the people who use the services, such as people in the independent living movement or those who live independently, could get involved in the regulation of personal assistants. However, at the individual level, if someone uses a hoist at home they must ensure that the person they employ to assist them has done a training course on that. At one time we all thought that the health and safety regulations did not apply in the home, but they do.

Under the regulations, the person must do a commonsense risk assessment of their home as a working environment and then work to that agenda. However, somewhere down the line, I would not like somebody to chap my door at half past seven in the morning, when I was hanging off my hoist in my nightgown, to come in to make sure that the PA was doing their job right. That would be intrusive and a return to the old institutional approach, in which the doctor comes round with his posse of students to talk about the dystrophic man on the bed.

To be practical, we are very conscious as an organisation and as people who use personal assistants of the value of PAs and the funding for that opportunity. The opportunity cost for us in having PAs is not having to be in places such as Broomhill hospital, the old Gogarburn hospital, Canniesburn hospital or other institutions.

I can assure you that we will want to ensure that our workers will be funded adequately. I hope that the Government will ensure that through the local authorities. With or without support, we will take responsibility for the PAs to ensure that our workforce within the home is regulated. Collectively, a network for good practice in personal assistance is automatically starting to be created. We are still at the dawn of the new age, but we are aware of the challenges in front of us and we are up for them. I think that we are not bad at regulating PAs just now.

Noni Cobban: I refer the committee to what I said earlier about the work that I have done in the past on the issue. I think that what is proposed is a useful, relatively simple model that could be implemented. If people registered under the PVG scheme, that would be an addition to a database of people who work in the care area, which would mean that they would be known about and would not need to be inspected as Peter Brawley described. He does not want people coming into his home to check how a PA is working. What is proposed would provide a route for sanctions if people were found to have breached the codes of practice for social care. That could be dealt with in a range of ways.

Most people around the table will have a driving licence. That system works quite well and swings into place when I do bad and go too fast. The model and the concept could be developed for personal assistants—that would not be unachievable.

I return to what Ranald Mair said. I would tend to put such a system under the umbrella of the SSSC, because it regulates the workforce.

Jim Eadie: I move on to funding. Ms Fraser asked whether people will have enough money to make a real choice and Mr Mair expressed concern that failure to resource individuals and providers could lead to cost cutting in some circumstances. I would like to understand the witnesses' insight into the recurring costs that will be associated with the framework under the bill, whether recurring savings can be achieved and whether they agree that the bill's impact will be cost neutral, as the study by the Scottish Government and the University of Stirling says.

Dee Fraser: First, we need to recognise that it is really difficult to predict the transition costs for the whole system and for providers. I am conscious that our submission included no figures for such costs. The "Counting the Cost of Choice and Control" study, which was an excellent piece of work, focused on the potential savings that were available from direct payments, simply because that was the only data from which the study had to work. Saying that the system will be cost neutral in the long term does not necessarily give an accurate picture.

For providers, costs will relate to having a more flexible and more skilled workforce, which is a more expensive workforce. High demand for out-of-hours care and flexible care could mean a more expensive workforce. A move to marketing to the individual could have costs for providers. I am thinking of smaller providers with one or two employees that work in rural areas and do not have the resource for such activity. A cost will relate to changing systems to move from dealing with large contracts to dealing with individual contracts.

The core anxiety for providers relates to core costs and how they carry an increased business risk—to be frank—when they are moving to a less assured funding stream. That will apply particularly in the three to five years of transition, when we will not have the data to tell us the trends until it is almost too late.

Ranald Mair: We are talking about two different elements. A cost is associated simply with implementing the scheme. I noted from the committee's discussions with local authority representatives that they are increasing considerably their sense of how much that is likely to cost. Immediate implementation will not be cost neutral. We accept that readying the sectors will involve costs.

We do not have a level playing field on costs at the moment. People know my views about the cost of a local authority delivering care versus the money that is spent on purchasing care from the third sector or the independent sector.

I have a bit of a worry about how somebody's budget will be set. If it is set at the level that applies to purchased care, people will never be able to afford to buy a service from their local authority. Alternatively, people could have a different size of budget that depended on whom they were to buy care from. There is a whole business about how we will set budgets and provide a level playing field of choices that people can afford. That is complex.

I noted that, in a previous evidence session, the local authority representatives argued for local discretion. I understand that the costs of delivering care in different parts of the country are not identical. On the other hand, I do not want some kind of postcode lottery in which, depending on the pressures on a particular local authority's financial position, an individual in one part of the country has a more generous budget to meet a certain need compared with an individual in another part. As we move forward into the implementation phase of self-directed support, we will have to do a lot of work on various big issues including how the budget is set, how we create a level playing field to ensure that services are equally funded and how we ensure that we do not have a postcode lottery and that people, wherever they are in the country, have a sufficient budget to purchase the care that they need.

11:00

Peter Brawley: I do not think that I am qualified to say very much about budgets or the allocation of scarce resources. However, I am a wee bit of a historian. I notice that Mr Lyle has previously asked about the financial preparatory work that has been carried out for this; I remember that as a member of Glasgow City Council's equality committee in 1997 when direct payments were being implemented I got a paper setting out the budget for social services and saw the word "WEB" beside direct payments. I did not know what that meant; in fact, no one else knew and when we asked we were told that it meant, "Within existing budgets."

At that time, the catalyst for direct payments—which, to be quite honest, is what self-directed support is—was the need for a philosophical model and an ethical push to get local authorities to examine their services and change their philosophy. Over the decade since then, various reports have been submitted to Government on the allocation of scarce resources, the funding of this measure, block booking and everything else and when I read the committee papers the other day I was quite concerned to find that people are still having that debate. Has no one learned anything? We were supposed to have prepared social services to implement direct payments—or what is now called self-directed support. I know that this is a big issue but it seems that, with this policy, we might well face the same barriers of not knowing what the real budgets will be and how they will be allocated.

As for individuals, all I can say is that under the resource allocation programme there seems to be a push to reassess and cut people’s packages. At a time when we are looking for money to implement this new system, the resource allocation to people—those who, I would argue, are the most important because with individualisation they will hold the purse strings—is being cut. That is sad.

I have nothing more to say, convener. That was a bit of rant, but as a punter I think that we are just going round in circles about budgets and what not.

The Convener: Do you have anything to say, Ms Cobban? Do not feel pressured to do so.

Noni Cobban: I have nothing to add, except to say that I support the points made by Ranald Mair and Dee Fraser.

Ranald Mair: The committee has previously discussed the question whether we are actually in danger of putting the cart before the horse with the timing of self-directed support and the introduction of health and social care integration. If we had health and social care integration and pooled budgets, it would be more meaningful to relate self-directed support to the totality of spend on service users. However, at the moment, we are talking about self-directed support largely in relation to local authority spend, not health spend, and at some point over the next few years we will have to bring those things together.

If the goal is to integrate health and social care with pooled budgets and joint commissioning as informed by the principles of self-directed support, we will have to introduce self-directed support and then discuss its implications for health. At the moment, we are talking about part of the spend on older people, not the whole picture. The problem with the financial assumptions is that they are one-sided.

The Convener: Bob Doris has a supplementary question.

Bob Doris: I am interested in Mr Mair’s comment about the need for a level playing field on choices and support—I think that that was the expression that he used. This might interest Mr Brawley, too.

When we talked to Glasgow City Council social workers, they talked about an equalisation agenda. They acknowledged that the level of direct payments or support that an individual receives is based on the resources that are available to local authorities when that person enters the system. That means that, from one year to the next, the level of care and support for two individuals with similar care needs varies, which is not equitable. There is an issue about how to level that out to ensure that, irrespective of the resource that is put in, two individuals with similar support needs receive similar levels of support. That is a challenge for those social workers.

I will mention another challenge for them, which is the essence of my supplementary question. Local authority services such as traditional day centres are cost intensive. Is there an expectation in the third and independent sectors that, when people have greater choice, the disaggregation that will be necessary should be based on a general unit cost? Should we disaggregate the cost of a place at a traditional day centre in crude financial terms and then give the money to the individual? Of course, there comes a tipping point of provision. I would be persuaded if, in realising the budget that is to be self-directed by individuals who choose to go elsewhere, local authorities felt that they should not disaggregate on the basis of the full costs of individual day centre places. I hope that you are following the logic here. That is just one of the challenges that local authorities will have.

Ranald Mair: One high-cost element of any local authority service is the central service charge. The cost of a day centre place includes not just the cost of delivering the care in the centre, but part of the cost of that local authority being there delivering the care. I would expect the disaggregation of the cost of care, although there might be some saving because the council will no longer be running the service.

At present, the costs of home care are hugely disparate. An hour of care that is delivered by a local authority costs £20 to £25, whereas care that is commissioned from the third sector often costs £15 to £18 an hour, and costs associated with the independent sector are £13 to £15 an hour. There are big disparities. The cost of a council delivering an hour of care can be almost twice as much as the cost of purchasing care in the independent sector.

I hope and expect that SDS will lead to equalisation that does not deprive people of choice but which ensures that we have some sort of level playing field. We need to ensure that the costs reflect the quality of care that we want and the additional elements that we have talked about of training and support functions. We have an opportunity to think again about how to get best value for the public purse, how to deliver quality care and what the cost of that is. The cost should not vary enormously according to who provides the care.

Bob Doris: Just for clarity, if a local authority home care worker notionally costs the local authority £20 an hour, disaggregating that would not be as simple as saying that, if someone receives 10 hours of care a week, they should get £200 a week and then decide how best to use that money, because, obviously, that would be disaggregating other costs. Therefore, we would expect the money that follows the individual to be less than that. There must be a recognition of the local authorities' core costs.

Ranald Mair: Yes—in other ways I am probably one of the advocates for greater outsourcing, but outsourcing is not cost neutral. In the short term, either there are costs associated with the Transfer of Undertakings (Protection of Employment) Regulations and the transfer of staff from the local authority sector to the third sector or independent sector, or there are redundancy costs. We do not want to lose the workforce—we will need everyone who works in social care. The issue is not about downsizing the social care sector: against the demography, we will need more people to undertake caring work in the future. We do not want to lose people, whoever they are employed by. We want to maintain the workforce, even if people work in different contexts or under different employment arrangements. Outsourcing and transition are not cost neutral in those terms.

The Convener: We have 10 minutes, at most, left with this panel. Do member have further questions?

Gil Paterson (Clydebank and Milngavie) (SNP): Mr Mair referred to different costs. I expect that the three different institutions may have different employment costs in terms of salaries. Do you have any evidence that councils may in fact be paying a higher rate to individuals? I understand that big organisations tend to build empires—they are good at that—but there is another factor that comes into play.

Ranald Mair: Clearly, one factor—not necessarily the largest factor—in cost differences is to do with staff terms and conditions. In general, I would probably favour us moving towards more of a level playing field of terms and conditions. I do not necessarily mean that everybody should level up to local authority terms and conditions, but we want to create greater mobility of people across the sectors.

In effect, third sector and independent sector organisations have been forced into a position of offering less good terms and conditions because of the price that local authorities have been prepared to pay for care. To keep the costs down, there are poorer terms and conditions in the third sector and independent sector. It is not a matter of the organisations wanting to offer poorer terms and conditions—their recruitment and retention of staff would be that much easier if they were able to improve that—but improving terms and conditions would push up the cost of care, and the price that local authorities had to afford. We should therefore be looking at how we create greater equalisation on terms and conditions, and how to reduce some of the cost variation within the framework of self-directed support.

Variation in cost is not the only factor. The bigger factors are probably to do with overheads and central service charges, but terms and conditions are obviously an issue, too.

Dee Fraser: We did a piece of research about the workforce and terms and conditions in the third sector, which was published in 2011 in conjunction with the University of Strathclyde. That research very much showed that there are no elements of public sector pay and conditions that are universally available to the third sector. As Ranald Mair eloquently described, the downward pressure on the resource for care has led to employers handing on costs to their staff. I refer you back to that report if you are looking for more detail on exactly what the differentials were.

Gil Paterson: That would be extremely useful.

In other parts of our evidence taking, we have found that there is a complaints procedure in place, and that that seems to substitute for someone having the ability to appeal. What is the panel's view on that? With the changes that are taking place, is there a need for an appeals system?

Ranald Mair: In reading the papers for today's meeting, I noted that that issue had come up for discussion. A basic right of appeal in relation to how a person's personalised budget has been arrived at is important, but that is different from someone making a complaint about the process by which their care is being managed.

Complaints should involve concerns about the way in which someone has been treated, but there should be a right of appeal around the setting of a budget, so that a person can say, "Actually, I haven't been given enough to meet my needs adequately." That is an appeal, in the same way that people can make an appeal in relation to being denied benefits. There is a difference between an appeal and a complaint. I favour a basic right of appeal in relation to the package that has been allocated, which is separate from complaining about the process.

11:15

Peter Brawley: There needs to be a right of appeal. In some respects that goes back to the issue of advocacy, but, more important, for many years those in the independent living movement and community care users in general have not had redress through the law at times. People use those services because they need them; they do not want them because their next-door neighbour has them. They are part of a person's core services for living.

Too often people accept the unacceptable, for two reasons. First and foremost, that happens because of the appeals procedure. Although that exists through social work departments across the country, the process of going through it and having to fight your corner when you are struggling to keep yourself together a wee bit can be difficult, and there is no redress through the law in that respect. The other reason is the lack of proper advocacy at times.

An appeals system that is not hazardous to people's wellbeing would be great.

Gil Paterson: Related to that is the thorny question of costs. We have heard it explained that there are complaints procedures that double up as an appeals system, in which there are three stages. To bring into effect some form of appeals process would cost money—that is the reality.

It has been suggested that the money for that would not be new money and that it would have to come from front-line services. I know that that is very provocative, but nevertheless it is what we have been hearing. I would be grateful for any comments on that.

Peter Brawley: I will be dead quick on that point.

A lot of disabled people who use community care services are paying charges, and they also pay poll tax—sorry, it is council tax; that shows my age. If you are a disabled person who needs any specialised equipment or support, you pay more in our society. For example, some people need a cup so that they will not spill anything. If you go into Tesco and say that you want a Tommee Tippee cup, you can buy one for a baby and it costs £1, but if you buy one for a disabled person, it costs £6.

We already pay through the nose in tax and national insurance, and some of us pay community care charges and other types of charges. We are putting enough money into the coffers for us not to worry about the cost. An appeals process would be fair and equitable, and due process of law should mean that we should have a good opportunity to take our appeals right to the very top if need be.

Ranald Mair: I endorse that point. I understand why local authorities might feel that appeals procedures would ratchet up costs, but they may be more inclined to mediate if they know that there is a right of appeal, so in that sense people would not have to go to appeal.

Having an ultimate right of appeal that enables people to go as high as they need to—that right should exist, as Peter Brawley has said—might focus people's minds on mediation and finding solutions without incurring the high cost of appeals. I understand local authorities' thinking in that regard, but I do not entirely accept their rationale.

Gil Paterson: There are three stages to the appeals process. I know that, in running a private business, the last thing that anyone wants is any form of complaint, as the process tends to ratchet up and cost more money.

Do you have any view on whether a meaningful appeals system would stop the drive in that direction? I will say no more, as I am putting words in your mouth.

The Convener: Please be brief.

Gil Paterson: Is there a saving to be made in having an appeals system?

Ranald Mair: What we are trying to establish is rights. Part of having rights is that people should be able to assert them and have some recourse if they feel that their rights have been denied. Self-directed support involves being clear about the rights of service users to all the things that we have talked about with regard to personalised care packages.

I do not know whether an appeals process would be cost neutral, cost saving or cost incurring, but I think that it would be a price worth paying to make it clear that people have rights and that they can assert them, so I will stick with that view.

The Convener: Does anyone dissent from that point of view? For the record, I see that no one does.

I know that some members would have wished to follow up on some of those themes. However, we were unavoidably delayed at the start of our session, and I want to be fair to the next panel, which is a round table. We also have an engagement scheduled with young carers after the meeting.

If panel members believe that there are areas of importance that we did not cover this morning, we would appreciate and welcome any further written submissions by e-mail or whatever; it does not have to be a formal communication.

As convener of the committee, I thank you all for the time and evidence that you have given us. The session has been entertaining and challenging at times, and we thank you very much for your attendance.

11:22

Meeting suspended.

11:30

On resuming—

The Convener: We move on to our second evidence session, which will be in a round-table format, as will be obvious to everyone by now.

I welcome Angela Henderson, national local area co-ordination development and policy manager at the Scottish Consortium for Learning Disability.

Angela Henderson (Scottish Consortium for Learning Disability): It is a long title. Thank you.

The Convener: I also welcome Pam Duncan, policy officer at the independent living in Scotland project; Brian Houston, associate director of children's services at Barnardo's Scotland; Florence Burke, director for Scotland at the Princess Royal Trust for Carers; Callum Chomczuk, senior policy and parliamentary officer at Age Scotland; Aidan Collins, policy officer at the Scottish Association for Mental Health; and Jim Pearson, deputy director of policy at Alzheimer Scotland.

Welcome to you all. I am going to contradict myself in a moment by asking Richard Simpson to open the discussion, but in this session the challenge for the politicians is to have a conversation with our witnesses and to listen to dialogue between them rather than listening to other politicians. We will give marks out of 10 at the end.

Richard, will you open up the discussion?

Dr Richard Simpson (Mid Scotland and Fife) (Lab): Fortunately, I have a long memory and I remember what has happened in this area of work. The Community Care and Health (Scotland) Bill was considered in the first session of the Scottish Parliament and the concern that I raised then was that local authorities would be, in effect, monopoly purchasers, because they would do both the assessment and the purchasing. I had concerns about how that would play out in relation to care homes, which is what the bill was about. Those concerns have partly been borne out, as there are still considerable difficulties in that area.

How can we ensure that local authorities maintain a level of neutrality in a system in which they will be the enablers, the commissioners, the providers and the assessors? They will also operate such appeal mechanisms as will exist—we will move on to discuss that. Local authorities will have a huge role. How will that sit with the work of the organisations that are represented here today?

That is just a question to get the conversation going. Take it where you like, subject to the convener's approval.

The Convener: Who would like to start?

Aidan Collins (Scottish Association for Mental Health): I listened to the evidence from the first panel, and something jumped out for me about how self-directed support is being driven forward. In our discussions, we are focusing on citizenship, in that we are looking at human and civil rights and seeing them as underpinning self-directed support. If local authorities take a citizenship approach, they are likely to see self-directed support as fulfilling their moral obligation to meet people's needs. However, another element is coming in around consumerism, whereby the focus is on providing services and ensuring that they are flexible. If local authorities take a consumerist approach to self-directed support, they will look at efficiencies and the cost of services.

As a starting point, it would be good to have a clear direction from central Government about what is driving the move to self-directed support. Is it about citizenship, genuinely putting the person at the centre and promoting human rights, or is it about consumerism and the cost of services? That is an important distinction, and clear direction would help to ensure that local authorities approach self-directed support in the right way and are impartial.

Angela Henderson: I agree that it is important to focus on the citizenship element. The strong focus on choice and control in the general principles of the bill would be enhanced by a more explicit connection to the outcomes for individual citizens that we are looking for and a more explicit connection with human rights and the goal of independent living for people who access community care services.

Callum Chomczuk (Age Scotland): That takes us back to appeals and advocacy. I am probably echoing what I heard at the tail-end of the previous session. One problem that many older and disabled people have is that, although issues may be raised with local authorities, they resist facilitating people's access to self-directed support. People are determined to say, "You won't be able to control the budgets. It's too much work."

We need to change such attitudes, and that can be done only by having independent advocates for older and disabled people to represent their needs. An independent appeals system can help to change the culture. I heard what was said in the session last week. That is probably the biggest obstacle or barrier to overcome. If the culture in local authorities can be changed—I think that those two processes would help to do that—there will be greater uptake of direct payments and other forms of self-directed support.

Pam Duncan (Independent Living in Scotland Project): I thank Dr Simpson for the first question, which is an important one. We would, of course, highlight what has already been said about citizenship and human rights. We believe that SDS is an opportunity for Scotland almost to set what happens on the international stage in relation to independent living being the outcome of community care and disabled people enjoying their human rights on an equal basis with non-disabled people—everyone else in society, basically. I talk about disabled people quite regularly, but obviously I also mean other care and support users.

We think that a statement of intent at the head of the bill might help. We spoke about that in our session with users and the committee last week. I will not go over the exact wording of it, as it is included in our written evidence, but we have suggested that

> “SDS is one type of provision society makes, among several, which underpins disabled people’s right to independent living”

and that the act could

> “enable local authorities to provide support to disabled people, other community care users and carers”

to make that happen. Once we change the view of what SDS is so that it is seen not just as being about having choice in and control over a process, but as a key element of supporting disabled people to live their lives in the way they choose, that will begin to get the culture change that is needed in local authorities.

People will sometimes say, “I’m interested in direct payments,” and then the first person they see—I was going to say the first gatekeeper, but that is quite provocative language—will say, “That’s a lot of hard work. Are you sure that you want to do that? We have a waiting list and nobody else will be able to help you.”

In order to empower the professional to be able to do what they are in the business of doing—to deliver choice and control for service users—it is important to change the culture and to address bluntly the vested interests in the status quo, which will be difficult. Again, it is about showing the potential of self-directed support and what it can do for disabled people. One way of doing that—there is no stronger way of doing it—is to showcase what has already happened. There are many examples of disabled people and other service users who have made the best out of direct payments and who can show local authorities and, indeed, the wider public the benefits of self-directed support and how it can genuinely change the lives of disabled people.

I hope that today and throughout the Parliament’s consideration of the bill, we in Scotland will take the opportunity to set what happens on the international stage.

The Convener: We have had evidence that the bill does not offer control or independent living. It offers choice and flexibility in and around the care package, but it does not offer the control that many advocates of independent living have suggested is needed. The hope is that that will be an outcome, but the bill will not change the law to ensure that people have the right to be supported in independent living.

Pam Duncan: That is an interesting observation. You are absolutely right that it does not, which is why we think that there needs to be a statement of intent; otherwise, SDS becomes just about process. We do want to make the process better, but this is not just about the process; it must also be about the outcomes, which I know are the focus of social care in the future. This is about addressing what sort of self-directed support we get and what provision people have. In our written evidence, we make the point that, in order for the policy to fulfil its potential, we must address eligibility for services and the sort of support that people get. As the eligibility criteria change, the life-and-limb provision that we see across the board at the minute will not deliver independent living for disabled people. There is a wider—and very public—agenda on the elephant-in-the-room issue of funding for social care in general.

Florence Burke (Princess Royal Trust for Carers): It is important not to lose sight of the carers or families in these situations. I support what colleagues have said about the citizenship and human rights elements. In our written evidence, we talk about respecting the human rights of unpaid carers and family carers. When we look at self-directed support, there is often a need for family assessment so that we do not lose sight of the young carers or the needs of the unpaid family carers. We must look at the outcomes for the family as a household rather than for particular individuals. We are then looking at positive outcomes for our communities and people as citizens. We would advocate a whole-family approach to the assessment of needs under self-directed support to ensure that no one is lost.

Jim Pearson (Alzheimer Scotland): I agree with that. Underpinning self-directed support is people's right to choose how they receive that support and treatment, which is a fundamental human right. We were involved in the development of the charter of rights for people with dementia and their carers in Scotland, which was underpinned by a United Nations approach to human rights called PANEL, which stands for: participation—the right of individuals to participate in decisions that impact on their lives and human rights; accountability of those responsible for upholding those human rights; non-discrimination; empowerment of the individual; and legality in all decisions.

The area of legality is where the right of appeal sits, as legality includes the need for people to have effective remedy when they disagree with a decision. The current internal complaints procedure does not deliver that, but an independent appeals process supported by advocacy would not only give people the right to appeal against decisions that they disagree with when the law has perhaps not been applied correctly but, ultimately, make decision makers in local authorities who are responsible for developing individual budgets and assessing individuals much more accountable for how they do that, how they explain how decisions are reached and how they explain someone's ultimate settlement and the individual budget. In a previous life, I worked in welfare rights, and that worked well within that system. People being able to challenge decisions made by the Department for Work and Pensions did, over time, improve accountability in decision making. We would be keen to see that approach developed further.

Brian Houston (Barnardo's Scotland): Pam Duncan's point about vested interests is important. We probably need to accept that the way in which services are currently constructed is quite a hard starting point to move away from. It is less about vested interests than about an investment that has been made. The third sector has developed into quite a robust sector based on a commissioning culture in which lead commissioners within local authorities commission organisations to do things. A significant amount of change is required for all the stakeholders involved, which is why it is an ambitious project and the benefits may be longer term. It is hard even to try to imagine what it would look like in the longer term. That is why the challenges that we face are for everyone who is involved in the current system. The system requires change, which requires certain stakeholders to let go and, within that, there is threat.

11:45

Angela Henderson: The point that Pam Duncan made earlier about the empowerment of front-line staff relates to the issue that has been raised. It comes back to the radical culture change that needs to happen in all parts of the community care service delivery sector, whether it is the local authority or the third sector.

Pam Duncan referred to gatekeepers of social care services. There is still a strong role for care managers in the provision of self-directed support. To come back to the emphasis on the human rights approach and the changes in the value base of staff, it is essential that we emphasise people's rights and the outcomes of self-directed support at the start of the bill through the general principles.

Pam Duncan: I agree with those comments, but I want to say something more about vested interests. The same applies for service users and disabled people who are used to the current system. It is a bit of a culture change for some people, so this is not just about the professionals involved in the system. Some work will have to be done and peer support will have to be provided to make people comfortable with their new role.

Self-directed support is not only, depending on which option you choose, a different way to receive your services, but it has the potential to change people's lives—that creates a link with independent living although, as you point out, it is not explicit. That is not something that people who, for a variety of reasons, have been disempowered for a number of years can take lightly or will necessarily find easy. That is why the bill must be underpinned by a right to advocacy. The role played by disabled people's organisations and peer support is also essential so that people are able to see what they can be in a way that they could not have seen previously.

The Convener: We have discussed the general principles of the bill and I think that we all agree that they could be better and that there could be a greater focus on human rights and so on. Perhaps a discussion of the barriers that might prevent achievement of the potential of the bill's proposals is the natural way to go.

Callum Chomczuk: I echo Pam Duncan's comments. Our consultation with older people reveals that there is enthusiasm lite. People recognise that there might be potential to access services that they have not previously had and that they could have a tailor-made package that might be better. However, there is fear about the responsibility that that would entail. To come back to what I said initially, when there is a lack of full co-operation and support from local authorities and when there is any suggestion that a burden will be placed on older people or disabled people, they pull back from self-directed support. Those principles must be at the front of the bill.

We must ensure that advocacy and support are available throughout the country. If somebody lives in Edinburgh or Glasgow, a market might have developed there for the provision of support, but such a market will be very limited in rural parts of the country, particularly if you are looking, for example, for a carer centre that provides black and minority ethnic support. Such provision might be sparse, so we must ensure that a landscape is developed that enables people to take the opportunity to be empowered and to benefit from the bill.

The Convener: I do not know whether anyone has interesting examples, but we have heard of some good examples in rural communities of a village approach to the provision of care, so there is a contradiction in that there has been innovation in some rural communities.

Aidan Collins: Mental health is recognised as being an area in which the take-up of self-directed support, especially direct payments, has not been as high as it could have been. That is partly about fear. People are afraid that self-directed support means that they will be left unsupported and will have to take on a great deal of responsibility. Therefore, advocacy and independent advice become crucial. It is necessary to be clear to people about exactly what self-directed support means and to focus on providing clarity not only about the direct payment option but about all the options that are available to people. Another barrier is the assumptions and attitudes of staff about what someone with a mental health problem might be able to achieve. There is risk aversion and fear of leaving people open to abuse and exploitation.

In addition, there are other things that we might not have considered as much as we could have. I am thinking back to the discussion on the integration of health and social care. In England, where services were well integrated and health and social care services had pooled budgets, when people who were experiencing mental health difficulties came to ask for a direct payment, the fact that the resources were pooled meant that it was extremely difficult to disentangle them and to separate out how much money was available for social care needs and how much of the pooled budget was for the health service. That became quite a barrier.

I do not think that integration is necessarily incompatible with self-directed support, but we need to start thinking about how the two agendas go together, especially as such massive changes are being progressed at the same time. We need to think about mental health and take-up in that context.

The Convener: My colleagues are getting itchy, but other panel members are keen to participate, so I will allow this to continue.

Brian Houston: I have a point about something that is less of a barrier and more of a hurdle, which some organisations are almost clambering over. It relates to my earlier point about the current construct and what services look like now.

The commissioning culture required certain things of organisations. The third sector organisations really matched up to that challenge by calibrating and orientating themselves so that they could meet requests to demonstrate that they were financially competent, that they had policies and procedures that they could show, and that they could respond to questions such as, “How do you develop your staff?” Over the past number of years, third sector organisations have had a strong focus on that in delivering high-quality services that are regulated by the care inspectorate and which are provided by workers who are regulated by the SSSC.

In moving away from that position and entering a different marketplace, a lot of larger organisations are having to recalibrate their whole organisation, because that is where all their work could be in the future. That is more of a hurdle than a barrier, but organisations need time and support to get into that new marketplace.

The Convener: Can you give us some examples of that?

Brian Houston: A basic example relates to how financial assumptions are made. Earlier, Ranald Mair made some points about contracted pieces of work and the fact that the commissioning approach puts providers against each other in a competitive process in which cost and quality are balanced and providers try to deliver a cost-efficient service to win the tender. Once the tender has been won, the contract must be delivered in a prescribed way, in the sense that a commission is a response to what the local authority has set down in relation to what it wants to procure. With more outcomes-focused services, commissioners may say, “These are the outcomes that we want—tell us how you would do it,” which is much more liberating for an organisation, because it can co-produce some of that.

The vision that Pam Duncan is outlining involves a more self-directed approach. That is a completely different marketplace. Third sector organisations would probably want to be in that marketplace, but they will look different. They need time to look different and to put in offers so that they are still engaged in such provision. As Ranald Mair said earlier, we do not want to lose organisations and people through this process.

Florence Burke: I will finish that point by focusing on what is an opportunity rather than a barrier. I will try to lift the discussion a little bit.

Ranald Mair may have mentioned earlier that the downsizing of the social care sector was not an option. Given the increasing number of carers and the support that they provide, we know that downsizing the unpaid social care sector will never be an option. Ranald Mair also said that there was a need for greater equalisation of terms and conditions of the workforce across Scotland.

There is a real opportunity in the bill, because if it were to make it a duty rather than a power to give carers access to self-directed support in their own right, a massive saving could be made to the public purse, at a time when we keep hearing about financial difficulties and the need for additional resources. Potentially, a small investment for carers in Scotland who want to take up self-directed support in their own right could help to maintain the £10 billion savings to the public purse that carers provide by giving unpaid support. Making it a duty to offer carers access to SDS is certainly something that carers and carers organisations want to push.

Jim Pearson: Alzheimer Scotland got funding from the Scottish Government to run a pilot project in Ayrshire. We found that many people who took up the option of self-directed support had been assessed as needing care in a care home setting. Their packages to enable them to stay at home used less money than the local authority would have used if it had had to fund a care home place. People used their packages in creative and innovative ways to secure the outcomes that they wanted. The report of the pilot indicated that the number of admissions to hospital in crisis interventions had reduced to some extent, and that admission to a care home had been delayed for some people.

We had to overcome a lot of barriers in working through the process. People in our team, who were working with three Ayrshire authorities, found a lack of understanding and knowledge among the professionals. However, over time and by working with individuals, we were able to show that barriers could be overcome. Towards the end of the pilot we were working together much more effectively.

That experience has been mirrored in other areas in which we help people to access self-directed support. Initially there are significant barriers, but when we start to work with professionals and one or two cases come through, people start to see the benefits and the outcomes and the culture starts to be challenged.

There are multifaceted issues to do with barriers. The strategy for self-directed support in Scotland is a 10-year strategy, in recognition of the barriers that we face in delivering the cultural and transformational change that is required if self-directed support is to work. There are many ways of doing that. Training is one way, and working in partnership is key.

Angela Henderson: For people with learning disabilities, one of the biggest challenges in the early stages of implementation of self-directed support has been the rapid timescales in certain local authorities. In the evaluation of the policy framework, “The same as you?”, we found that people with learning disabilities have a low level of awareness of the right to direct payments. There is a significant information gap and people in Scotland do not know about their right to direct payments.

That means that if we are to support people on their journey towards building a self-directed support package, we need to put a lot of time and effort into building people’s capacity to construct a vision for their lives. We need to work with people to develop a personal outcomes plan that is about not just the support that they receive but the wider outcomes that they would like in their lives.

The breakaway project, which has been piloted by City of Edinburgh Council through the local area co-ordination team, is about providing short breaks for people. An SDS approach was piloted, whereby people with learning disabilities and family carers from—I think—four families were brought together to plan short breaks. In the first stage of the programme, a lot of time was spent working with people on building their vision and their capacity to think differently about the short breaks that they wanted. That led to people going on some exciting trips. The carers and the people who went through the project reported very positive outcomes and the council has responded very well by expanding the programme to 40 families. The programme itself uses option 2 of the four options in the bill, with the local area co-ordination team managing the individual service fund and the use of pooled budgets. Such examples can show people how the different options can work to achieve positive outcomes for carers and individuals.

12:00

Pam Duncan: Angela Henderson makes a very important point about the capacity of individuals to understand fully what their life can be; indeed, I mentioned the same point earlier.

As for other barriers that exist, I will try to cover the four that I have written down as briefly as possible. In introducing self-directed support in Scotland, we need to bear it in mind that a huge barrier for some disabled people and other service users is support for their capacity to consider any option other than the status quo. As Jim Pearson has pointed out, the strategy covers a lot of that, and work on communication and training, and other work with disabled people's organisations and other user-led organisations on supporting disabled people is on-going. That work will be key, because such support is necessary. Some people think that the question is whether people have the capacity to manage, but with me, for example, the issue was not so much capacity as competence. I did not wake up able to manage a direct payment and be an employer and I think that most citizens in this country, even the learned people around the table, would need help with that at the outset. Such support is essential and the provision in the bill could be stronger.

I have already talked about culture change and the need to change our view of the current system of support and devolve a lot more power to the individual—although I suppose it might be better to talk about sharing power between the individual and the professional. Both elements are quite difficult and we will need to empower individuals and professionals to find the best possible way of doing that.

Two other huge issues for service users, particularly disabled people, that I have lumped together as a barrier even before we get to self-directed support, are the eligibility criteria and social care charging. The Joint Committee on Human Rights has highlighted eligibility criteria as a huge concern with regard to disabled people's human rights, particularly those outlined in article 19 of the United Nations Convention on the Rights of Persons with Disabilities relating to the right to live in the community. As eligibility criteria rise, disabled people are finding that they are getting support only to get up, go to bed and be fed; in fact, we have heard horrific stories of people celebrating the discovery of 12-hour incontinence pads, because it means they do not have to send someone in every six hours to change those being cared for. This massive issue is a result of the fiscal challenges that we face. I realise that that sounds quite provocative, but some people are having to live with this reality and until we address the wider public issue of the funding of social care and examine the current resources, self-directed support will have only limited potential. I feel as though we have been banging this drum a lot, but if we do not discuss the general funding of social care it will simply become the elephant in the room.

Local authorities seem to be looking at charging as a way of increasing their funding to meet demand. One can understand why they are doing so, because they have a limited number of tools in their box—although I think that there are others that they could use. However, although charges amount to only 4 per cent of the total cost of community care, that 4 per cent can account for 100 per cent of the disposable income of disabled people or their carers. That is a huge issue, particularly given that 47.5 per cent of disabled people live in poverty. Charging for community care, particularly self-directed support, can act as a huge barrier to accessing it in the first place and, as we suggest in our submission, our society needs to examine how it values and funds social care in order to get to the nub of some of these issues and ensure that such support delivers on its potential.

The Convener: The politicians would like to speak.

Gil Paterson: Jim Pearson has spoken about what I wanted to ask about, which is the definition of an outcome. I would like to ask the other members of the panel whether they think that, in itself, the right to self direct is an outcome, given that many people will not do that?

It is good to hear the evidence from Alzheimer Scotland about people who are not entering hospital care, which is a big saving. We should not really think about it as a saving, of course; we should plough that money back into the service.

Fiona McLeod: Before I move on to the issue of personal assistants, I want to ask two specific questions about issues that have arisen so far.

Section 1(2)(a) says:

> "A person must have as much involvement as the person wishes in relation to ... the assessment of the person's needs for support or services".

Why is that not sufficient? Some folk have said that we need to make the rights clearer than that.

On advocacy, section 1(3) says:

> "A person must be provided with any assistance that is reasonably required to enable the person ... to express any views the person may have about the options for self-directed support, and ... to make an informed choice when choosing an option for self-directed support."

People talk about the need to have advocacy in the bill. Why is that section not sufficient?

The Convener: Those are useful questions, which continue the dialogue.

Pam Duncan: I will pick up on the point about section 1(3) and the provision of assistance that is "reasonably required" to enable a person to express views and make informed choices about self-directed support. I know that it might sound like semantics, but the use of the word "reasonably" is a big deal. If I were to present to a local authority tomorrow for an assessment for self-directed support—I have already got it, so I would not, obviously—whether I needed support to manage that would be open to question and, obviously, there is a resource implication attached to the support that I would need.

There is a loaded assumption about what people will and will not need support with. We need to bear it in mind that the issue is not only about how a person manages arrangements, how they pay staff, how they choose their agency or how they manage the money in their bank account; it is about the person and how they want to live. Past experience of the way in which direct payments were rolled out shows that that element of support has not been as prevalent in the system as it should be, and people have not always had the sort of support that they could have in order to realise how they want to live their lives. That means that the term "reasonably" is particularly problematic.

A later section of the bill—section 4, I think—talks about capacity in relation to assistance. When we relate support and assistance only to capacity, we are in danger of missing out competency issues and the wider issues that we have outlined in our submission about frustrated ambition and disabled people being disempowered and not necessarily realising their potential. When that is coupled with confusion around capacity and the term "reasonably", it makes the bill a little weak.

We support the submission from the Scottish Independent Advocacy Alliance, which is clear that the provisions in the bill should be as strong as those in the Mental Health (Care and Treatment) (Scotland) Act 2003 that give a right to independent advocacy. That is our view not just because the default position is choice, and, therefore, people must have support in order to make that choice, but because of the intricate situations that disabled people and other care service users experience. It is important that we make the bill strong on those aspects.

The Convener: Anyone else? Is there any more to be said on that?

Angela Henderson: We would reiterate exactly what Pam Duncan said in relation to independent advocacy.

Jim Pearson: The issue of capacity is particularly important. The draft bill included a provision for a local authority to name an appropriate person to help to manage a self-directed support package for someone who does not have the capacity to do that and who does not have a power of attorney or relevant guardian in place. Alzheimer Scotland was disappointed that that provision was dropped. I understand the arguments that were made about the need to protect individuals and the protection in the Adults with Incapacity (Scotland) Act 2000. However, it can take a long time for people to obtain guardianship. We have experience of several cases in which individuals waited a significant period to access self-directed support. Many of those individuals were in hospital and were deemed to be unable to go home or to move on to access self-directed support without a guardianship order being in place. There are major delays for some people in accessing the type of support that they want.

We were disappointed with that change and we urge the committee to consider the issue again. The Department for Work and Pensions has in place an appointee scheme. There is probably a lot of money floating around in Scotland being paid directly to appointees for people in respect of benefits. I understand that there are issues to do with the protection of individuals but, currently, through the appointee system, the state pays a range of social security benefits to appointees on behalf of people who cannot manage their money. An appointee scheme for self-directed support would not be very different from that.

I understand that there are issues to do with making welfare decisions. However, section 13ZA of the Social Work (Scotland) Act 1968, which was introduced by an amendment in the Adult Support and Protection (Scotland) Act 2007 and which relates to people, particularly in hospital, who move on either to go back home or into a care home, allows a local authority to treat an individual who does not have the capacity to avail themselves of a service, provided that certain conditions are met. Those conditions are that there is no existing guardian, or application for a guardian, or power of attorney and that everyone in the process, including the individual who is involved, agrees that it is the right thing to do. Anecdotally, section 13ZA is only ever used to move someone from a hospital to a care home and it is rarely used to provide a support package to help someone to return home. A combination of the appointee scheme that is no longer in the bill and section 13ZA might have alleviated some of the issues.

Aidan Collins: We took a slightly different position on that issue, because we have concerns that the guardianship and power of attorney landscape is already cluttered and confusing and we felt that the provision in the draft bill could add more complexity. It is true that it takes a long time to achieve guardianship and that the process is frustrating but, if that is the issue, we should tackle that directly rather than seek to circumvent the problem. Therefore, we were pleased when the draft bill was amended. The current bill is more in line with the original policy context of assisting people to make decisions rather than risking a situation whereby someone makes decisions on behalf of a person who lacks capacity.

We need to consider how to address the broader guardianship issues so that guardianship can work better. We had concerns about the point that, because guardianship takes a long time and there are a lot of difficulties, we should just invent something else to run alongside it. However, I understand Jim Pearson's points.

Brian Houston: I have a general point. As a children's services provider, we sometimes struggle when the detail of the discussion moves on to look at other aspects of self-directed support. In the test sites, not a lot of testing was done for children's services. Young people were identified who were probably young adults moving into that transitional age. We have a concern that there has been no testing that would build collective confidence in the changes to the system among children's services and families with children.

Certainly there are mentions of children's services in some of the evidence that has been given to the committee, and children's services are in the bill. The actual detail of how that will look and how far self-directed support will go in children's services is a big question for us.

12:15

Pam Duncan: I have two pieces of information that might be useful to the committee and others around the table. Within the last year, Glasgow Disability Alliance ran a project called rights to reality, which was about young disabled people accessing self-directed support. It was not about children's services—they started at age 16. There are obvious issues there, although that age is a bit closer to ages covered in some of the other work. That project is due to be evaluated shortly and could provide some learning for the committee. The project took the approach of capacity building for the young people, working with the parents who had previously provided most of the care and support that was needed, and also working with the young people on opening opportunities to try out personal assistants or local agencies and get support from a system that they were not used to, as opposed to from their family.

Glasgow Disability Alliance is doing a second piece of work, which has just started in this financial year—only in the past month—and is called self-directed support road testers. That is work with young people and older people—both ends of the spectrum—which looks at testing outcomes of self-directed support. Gil Paterson might be interested in that. The project has not found out much yet, as it is new, but it is certainly looking at outcomes and capacity building in SDS and so might be one to watch.

Brian Houston: The issue is that adult services are going through significant change. A child receiving services now is moving, year after year, towards that changed situation. There is no preparation for children who are, for example, three, six, or nine years old, or families who have children of those ages, to test out and exhaust the possibilities before they get to what is always a challenging transition. That transition has just become more challenging.

The Convener: We picked up some of that during the committee's visit to Glasgow last week. The education system is not mentioned in the bill and neither is health, although we presume that there will be savings made as a result of people not going into hospital, or people getting out of hospital. The bill focuses on local government responsibilities, but we picked up on the point that children are at school for long periods of the day, and that, once they leave school, there is a challenge for the carer. It is a difficult transition that is challenging all round. We have a similar issue, to an extent, as a result of changes to college budgets—that is a concern. The college in my community provides significant amounts of learning for children with special needs that continues for some years.

Florence Burke: I will pick up on some of the points and return to the process. The issue is about the timing of when people get information. When is it appropriate to get information? What sort of information is appropriate, at that time, so that best use can be made of it? We have all probably been on an Excel spreadsheet training course, after which we have never had to use Excel because the time was not right, and then we ended up using something else. We have to make sure that the information and training that we provide to people is not just a one-off, and that we do not say, "You have had your training and information. That's it—you should remember it." It should be regular, frequent and delivered at the right time, before children are moving on to adult services. We should ask when it is best for the carer and the service user. That would have a big hit on how we could progress things.

Dr Simpson: Could I make one point about the guardianship process?

The Convener: Very briefly, as a supplementary question.

Dr Simpson: It is not the first time that we have heard that the guardianship process is slow, which is worrying. The costs of that to the health service are enormous.

I had a case as a consultant in which a patient was in an acute unit for six months waiting for a guardianship order, which situation cost £60,000.

I do not know the number of those with complex needs—our team might find out—and who are therefore removed from the delayed discharge list and await a guardianship order. A serious point was raised in the interplay between Aidan Collins and Jim Pearson about having or not having appointees. If we could substantially improve the guardianship process and make it quicker, we might not need appointees. However, unless we resolve the problem of the guardianship order, the argument for appointees will become much stronger.

Fiona McLeod: I will move on to the issue of personal assistants, the skills that they may need and their regulation if they become a large employee group. It was interesting to hear earlier from the representative from SPAEN, who was categorical that there should be no regulation of personal assistants. I thought that the Scottish Care representative summed up the issue quite well by saying that having the safeguards of regulation and an expected skills level for personal assistants would maximise choice for the individual who decided to employ a personal assistant.

Do the panellists think that we need to set a skills level for personal assistants? Do we need to regulate them? If so, how could that be done? Many of you will know that underlying my consideration of the issue and the theory behind it is my belief that having a regulated and trained personal assistant workforce would maximise choice. Those with self-directed support who wished to employ family members as their carer would be empowered to do so because as a carer they would be part of a proper, regulated, skilled workforce and there would be no need to consider the exceptional circumstances that local authorities, in the evidence that they have given us, seem to think should still pertain for family carers.

The Convener: Does anyone have any views on that?

Aidan Collins: It is a fine balance. We definitely need safeguards to ensure that people are safe, but we do not want to regulate self-directed support to death by paying lip service to it while destroying all the choice and control.

SAMH is stopping short of calling for a register of personal assistants, but we think that consideration of risk and safeguards must be carefully embedded in self-directed support. We think that there could be a service-user agreement between a local authority and a person receiving a direct payment about safe employment and safe practices, and carrying out PVG checks. The local authority would have a responsibility to ensure that the person understood what that meant, the risks that they would be taking and how to get the checks done. That is an example of the beginning of a safeguard.

We could build in considerations of risk at the stage of reviewing the person’s needs. For example, a person might have experienced a mental health difficulty that made them more vulnerable, and the question would be how that translated to building contingencies into the person’s care plan, such as what the person would do if they felt that they were being exploited, whether people would be trained to recognise that and who the person would call on. It would also have to be decided whether it would be okay, for example, to leave people for a year before reviewing the care plan and checking whether everything was going okay with the personal assistant, whether they were meeting the person’s needs and whether the person felt safe.

It is about having something proportionate. Some people might require a bit less regulation and review, but some people might be a bit more vulnerable and require more in that regard. It is about taking a balanced approach rather than a blanket one.

There is also an issue in self-directed support about people being out in their communities, being visible and making connections. That would be a safeguarding element in itself in that there would be more people who would be able to spot whether something was wrong and to pick up on signals and more people to whom the person could talk.

We think that such safeguards need to be built into self-directed support, but we must consider carefully how to do that without overregulating.

Pam Duncan: I echo much of what Aidan Collins said, particularly about the proportionality of regulation. I will share a personal story. I have used various forms of self-directed support and I currently employ my own staff. The skills that I want from them would not necessarily be on the tick list that a college might provide for registered PAs. For example, it is important to me that my staff learn how to blow-dry and straighten hair. That might sound flippant, but that is much more important to me than whether they have been through a food hygiene safety course. How many people around this table learned about food hygiene before they learned to cook? Most people do not do that.

From my point of view, the issue is balancing risk. That relates to Aidan Collins’s point about proportionality. Some people will need a little more guidance and support, and a bit of regulation will be required to ensure that services are going as they should, but other people will not require that.

I have another, similar story. When I used care agencies, I had a really good experience with a lot of them, but I was often asked questions such as, “What’s your favourite food?” I would say, "Chicken—but why is that relevant?" The response would be that that was what the PA would cook for me, but I want people to cook what I ask them to cook or whatever is in the kitchen. I might have a Domino's pizza, because I might not have anything in the kitchen. I was asked that question because people were trained to follow a list of things that it was important to recognise and regulate. I would also be asked, "Who will we phone if you're upset or sad?" I would say, "Nobody—I will phone people myself."

Proportionality is really important. I echo what Peter Brawley said about the danger of overprofessionalising and—I hate to say it—almost overmedicalising the care system in some cases. The system is unique, because of how the relationship with personal assistants works. It is important to remember proportionality, but it is also important to remember the skills that the wider care force might need. The skills that might be ticked off as needed might not be what a person required from tailored support. We need to get the balance right.

For the retention of personal assistants and other staff, it is important that they see the job as a career, so personal development is important. Overregulation needs to be balanced with opportunities for PAs to develop personally and to have a bit of a curriculum vitae. When my staff move on to somewhere else, I want to know that they have had a half decent crack of the whip. Most of the time, they will get a decent reference, because they are good, and they should be able to build up a CV.

That comes down to the money that is behind the system of support. The bill talks about an appropriate amount for direct payments. That appropriate amount must be enough to allow people to be good employers. To attract and retain a workforce, people need to be good employers and to offer in some cases opportunities for personal development that might involve not just care and support but other things. In my professional career, I do not have to do training only on policy; I am also offered other training opportunities, which recognise that I am a woman who has a career ahead of her. Such opportunities are important for PAs as well.

I have made a few points and I have probably not been very clear about what we would say is the right thing to do. What is important is proportionality, remembering that the skills that are important to people are not always the tick-box ones and remembering that PAs need to have an opportunity to develop personally.

Brian Houston: One challenge is to recognise the spectrum of arrangements that might be in place. From a children's services perspective, we support a number of children who have complex needs, for whom even communication is a significant barrier.

We must always be mindful of how we got to the point of having a regulated workforce. We know why we are here in children's services and adult services. Regulation was the national response to difficult things that happened. Even with regulation, difficult things can still happen.

In regulation, what provides standards and security for us all? That relates to the sense that Pam Duncan articulated of the quality of what is happening. Some service users will not have the competence or capability to judge that, so that will need to be done on their behalf. We need to have a standard and to ensure through regulation that care is at the right level. If we do not establish that, we will be waiting until the first incident, and then we will act.

12:30

Angela Henderson: There are standards out there, through the SSSC, which is about to publish revised national occupational standards in health and social care. The standards have been revised to capture the choice and control agenda and to change the language of the care and support framework, moving the focus away from the worker and towards the empowerment of the individual by emphasising co-production in relations between the worker and the person whom they support.

The existing frameworks will be translated into education and training opportunities not just for personal assistants, but throughout the workforce, so the standards will help to ensure practice improvement and development for PAs.

Florence Burke: Fiona McLeod talked about family carers; the vast majority of family carers who have given us feedback have been in favour of a payment that would be greater than the carers allowance that they currently get. However, they are surprised that when they cross the boundary between being an unpaid carer, who is given no training and no opportunity for personal development, and being paid a wage, there is regulation. They understand the sensitivities and the need to tailor the care package in the context of the assessment, but they do not want a heavy-handed approach suddenly to kick in as the workforce goes from being unpaid to being paid, which brings a certain level of regulation.

I add two caveats. Carers still want to be in a position to be able to say no and not feel guilty about doing so. Likewise, the service user should not be in a position in which they feel guilty about saying no to having that care. There should not be an expectation about how the family will move on and how the caring role will develop.

We are concerned about that in relation to young carers, in particular—we might talk more about that later. A young carer who is in a vulnerable situation looking after a parent or grandparent should not feel that looking after the person must become their career, and should be given the same opportunities as everyone else has. That does not apply just to young carers; all carers should have the opportunity to have a life outside caring.

The Convener: We are into our final 15 minutes, because we are going to spend time with young carers later today. Bob Doris and Drew Smith will introduce new areas for discussion.

Bob Doris: I will be brief, because I am enjoying listening to the conversation. We talked about local authorities' central role as gatekeeper to wider services, even if they do not directly control the budget but continue to direct the resource. Are there local authorities that are good at working with a diverse third sector, in relation not just to block and spot contracts but to signposting carers and cared-for people towards trustworthy agencies? Are some local authorities acting incorrectly as gatekeepers and offering only their preferred options? If that is not a problem, I am happy for us to move on, but the issue came up during our earlier discussion.

Callum Chomczuk: We have only anecdotal evidence from people who have called our helpline. We know of a couple of cases in the Highlands in which there have been blockages in relation to people accessing support. They were isolated cases and I have no evidence that the problem is endemic in the Highlands. In some cases, social workers are telling older people about access to self-directed support because they think that they must do so, while they are, in essence, trying to deter them from taking up SDS by suggesting that there are too many problems and the person will not be capable of managing an individual budget. The evidence is anecdotal, however, and does not necessarily reflect a wider problem.

Brian Houston: We deliver a service with North Lanarkshire Council. There is a traditional approach, in that we are paid to deliver the support, but the council made it clear to us what we should be doing. It is almost a question of building the foundations for self-directed support, so we work with parents to get them to think about the support that they want. They know that they are getting our service, but we need to know when they want it and what they want us to do, so that we can change a children's service from being preoccupied with personal care to being more preoccupied with looking at what a better life for that young person would look like. We want to look at the opportunities that we could broker for them—for example, the short breaks and activities that they could be involved in. That does not sound like a significant shift, but it has been interesting.

Pam Duncan talked earlier about service users being supported to manage that change although they have not even been given the budget. They are just being asked to change their thought processes, but some families still want the same support at the same time on the same day every week. That is their choice and that is what is important. That kind of service is more person-centred than it is properly personalised, but within children's services, it is the start of a pathway towards what self-directed support might be in the future. If we are confident, things will start to change.

Pam Duncan: That is a really interesting point and I will pick up on it. Ed Roberts, one of the founding fathers of the independent living movement, talked about raising the consciousness of disabled people, and Brian Houston has been talking about what can happen when a person believes that they can be something that they did not previously realise they could be, perhaps because of societal discrimination or the experiences of oppression that disabled people face. Raising the consciousness of disabled people has underpinned the independent living movement's view on how to ensure that disabled people can be equal citizens with equal rights within society, and that is important.

On Bob Doris's question, we also have anecdotal evidence of people being put off self-directed support because it is hard work; because not very many people in the area do it; because there is no one to employ; because it has not been done in the area before; or because they will not be able to manage SDS. A host of reasons have been given, but we hope that the culture change that will be underpinned by the strategy that Jim Pearson talked about earlier will be able to address some of them. Again, it is about understanding what SDS is and showcasing positive examples of the people who use it and the professionals who have put it into place. That is a good opportunity.

In our experience, the gatekeeper to people choosing what local authority services or voluntary or independent sector services they use is very much money. People are given a pot of money, they pick a particular service in a particular area because it meets their needs—perhaps they know the people or have used the service in the past—and it has ticked a lot of the boxes in terms of what they want to purchase, but the budget holder tells them that they are getting £15 an hour and the service that they have chosen will cost then £17. Where do they go to fill that £2 an hour gap?

I am concerned that, in that situation, people are paying lip service to choice, so I come back to the point about the appropriate amount for a direct payment. If choice is to be the default option, choice of provider or the way in which the support is provided are really important. In the example that I mentioned, individuals would often be asked to find the extra £2 an hour. They might be able to live with that if they are getting one hour of support a week, but not if they are getting 25 hours of support: that is a lot of money for people who are being asked to contribute to the cost of their care. Earlier, Peter Brawley eloquently described the costs that disabled people already have to pay over and above the normal activities of daily living. People are not saying, “That provider is no use; don’t touch them”, but are saying that the money tends to be the gatekeeper.

Jim Pearson: Pam Duncan made an important point about local government control often being about where it sets its direct payment rate and hourly rate, and how it does not reflect the existing market of providers, whether they be personal assistants or other organisations. It also does not reflect the individual needs of the person.

Being from Alzheimer Scotland, I will use the example of someone who has dementia. We have advocated strongly that people who have dementia and their carers need support services from individuals or organisations that understand how dementia impacts on an individual and on their family members and carers. It might be necessary to pay slightly more in order to get that skilled workforce to provide services. However, the way in which local authorities set direct payments does not reflect that—it often reflects the bottom line within the providers in a particular area. It does not reflect the market or give people true choice. On Bob Doris’s question about central control, a key aspect that needs to be addressed is how individual budgets—or appropriate amounts—are set in order to give people true choice so that their particular eligible needs are met within that particular market.

The related issue of what a “relevant amount” is was discussed at one of the recent bill steering group meetings. The term “relevant amount” is in section 3(2) of the bill. There is a definition of it, but only in relation to one of the options—the direct payment option. There is a view that that could fundamentally undermine the principles of the bill, because everybody should be entitled to know exactly what amount, or pot of money, is available to them for purchase and arrangement of the care that will meet their needs. It may be a drafting issue or it may be an error—I do not know. However, it could be interpreted to mean that the duty on the local authority to provide a “relevant amount” applies only in the case of somebody who chooses option 1—the direct payment route—and not the other options.

Florence Burke: On Pam Duncan’s point about the difference between the £15-an-hour and the £17-an-hour service, a person could opt to remain with the £17-an-hour service that they have been using and in which they had built up trust and confidence, and to pay the difference themselves. However, the reduction in the hours of paid care that they could then afford—that potential element of extra work—is likely to be picked up by an unpaid carer, which creates stress for the unpaid carer who will need to deliver that extra care.

Brian Houston: Many of the hourly rates are historical because they were built for something else through a commissioning process—a competitive process. The organisations that engaged in that and which built that process need time to unlearn and to put a different service out there if they are going to be part of this. That is one of the main transitional challenges for the voluntary sector—we matched up to one market, but a new market is being developed. The question is how to move large and small organisations over to that new market without destabilising those organisations. Some need to rethink radically their whole structure: finance, human resources—everything.

The Convener: The contention is that the effects of the bill will be cost neutral.

Brian Houston: The effect on organisations will not be cost neutral, because they are already having to recalibrate how they work in order to fit a new marketplace in which there is less reassurance. It is a question of risk management, because it is a business risk. An organisation might decide to rely on more as-and-when workers, or sessional workers, which would bring its own challenges in terms of quality and delivery.

Drew Smith (Glasgow) (Lab): I wanted to raise a whole pile of things that I am not going to raise at just before quarter to one, you will be glad to know, convener.

I have what is perhaps a slightly provocative question about the cost-neutral issue. Is it not the case that the bill would be cost neutral only by decreasing the workforce cost substantially by moving from the public sector into the independent and voluntary sectors, or through a much bigger expansion of direct employment? That would result in a predominantly low-paid workforce being paid even less and their terms and conditions would be substantially reduced. They would have less protection in what is essentially an employment relationship, which is potentially exploitative regardless of whether it is in someone’s private home or with an organisation. It seems that that is the only big cost that people have identified that we might save.

12:45

Jim Pearson: There is an issue around the potential of self-directed support—not just on cost but on how it supports people within the community. As Pam Duncan said, the eligibility criteria are a major issue. If we address only the people who have the most urgent and substantial needs, there will be a gap in provision. Again, I will relate that to people with dementia.

When someone has been diagnosed with dementia, support and help to allow them to continue to connect with the natural support in their family and community—in order to reduce the need for hospital admission and push back the point at which they may need more substantial care at home or in a care home—must happen early on. Self-directed support has the potential to deliver that by giving people small individual budgets early as a preventative spend measure that will help them to keep their connections going. However, that potential is hindered by the fact that the eligibility criteria are set so high. We already know that we cannot continue to deliver services as we do, given the demographics in society; the expectation is that the number of people with dementia will double by 2030.

There is therefore an issue around the big elephant in the room that Pam Duncan talked about. How do we fund and provide social care in Scotland and how do we tie that in to the reshaping care agenda and the integration of health and social care so that people can access individual budgets that help them to connect with things in their lives that mean that the funding acts as preventative spend? Perhaps in that way—I do not have evidence for this—SDS could be cost neutral. However, there is a risk that it will not be cost neutral if we continue to provide care and support only for those who have the most substantial and critical needs.

Pam Duncan: The preventative spend agenda is important. If we continue to meet people’s needs only at crisis points, they will reappear later in the system, which costs more in hospital treatment and in services that they would not otherwise have needed. I agree that there is a funding crisis and that there is a bigger question that we need to address, which is the reason why we believe that we need a commission on funding of social care in Scotland. That is a political agenda, which requires the public’s buy-in. We believe that we need to focus on the value of social care and how we spend public money, but—of course—people need to understand that value.

Before that happens, there are things that we can do. Preventative spending is a way of avoiding top-end costs, but we need to address the eligibility criteria. There is also a danger in reducing workforce costs, particularly if the reduction impacts on people’s working conditions. If that were to happen, people would have to consider whether they want to do the job in the first place, and a smaller workforce would limit choice and availability for people with SDS, which would be a concern.

I believe that we will, as a society, need to be innovative not only about how we use public money generally but specifically about how we fund and value social care in our society. That is the burning question that needs to be addressed.

The Convener: That might be a good point at which to end. We have run out of time—we never have enough time. We value your written submissions and your oral evidence. We encourage you to continue to engage with our on-going work on the bill. If you want to build on your written evidence or comment on evidence that you have heard, there is no barrier to your doing that, particularly if you enthusiastically support something—I will try to be positive for a change. However, if there are views that you do not agree with, we encourage you to view our evidence taking as a live process and to let us know. We would welcome your input in that regard, which would better inform our work.

I thank you for coming along this morning.

Meeting closed at 12:50.

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