

DUNDEE CITY COUNCIL

REPORT TO: SOCIAL WORK AND HEALTH COMMITTEE - 23RD APRIL 2012

REPORT ON: SOCIAL CARE (SELF-DIRECTED SUPPORT) (SCOTLAND) BILL - CALL FOR WRITTEN VIEWS AND IMPLEMENTATION ARRANGEMENTS FOR PERSONALISED SERVICES

REPORT BY: DIRECTOR OF SOCIAL WORK

REPORT NO: 172 - 2012

1.0 PURPOSE OF REPORT

- 1.1. This report provides elected members with information about the Social Work Department's proposed response to the Scottish Government's Social Care (Self-Directed Support) (Scotland) Bill call for written views. The report also provides elected members with an update on our local Personalisation Strategy as well as information on the Social Work Department's development of an implementation plan to support the delivery of Self Directed Support.

2.0 RECOMMENDATIONS

It is recommended that the Committee:

- 2.1 Approves the Social Work Department's proposed response on behalf of the Council to the Scottish Government's call for written views on the Social Care (Self-Directed Support) (Scotland) Bill, appended to the report.
- 2.2 Support the continued development of local Personalisation Strategy in Dundee in line with the Government's National Self Directed Support Strategy.
- 2.3 Note the progress made to develop an implementation plan to deliver on Self Directed Support

3.0 FINANCIAL IMPLICATIONS

- 3.1 The Financial Memorandum associated with the Social Care (Self-Directed Support) (Scotland) Bill summarises the anticipated cost implications and level of Scottish Government funding to be made available to implement the Bill. The total cost of implementation across the Scottish Government, local authorities and service providers identified in the Financial Memorandum is anticipated to be £42.72m between 2011/12 and 2014/15. This consists of the costs of workforce development, information and advice and transformation costs. The majority of local government's costs are expected to be in relation to transformation costs and the Scottish Government will provide funding of £6m, £11m and £6m in years 2012/13, 2013/14 and 2014/15 respectively to assist with these through specific grant funding.
- 3.2 The Scottish Government has recently announced individual grant allocations. As a result Dundee will receive:
- 2012/13 - £187,720
 - 2013/14 - £343,280
 - 2014/15 - £186,840

4.0 MAIN TEXT

4.1 Social Care (Self-Directed Support) (Scotland) Bill - Call for Written Views

On 1 March 2012, the Scottish Parliament's Health and Sport Committee opened a call for written views from all interested parties on the general principles of the Social Care (Self-Directed Support) (Scotland) Bill. All submissions have to be submitted by 24th April 2012.

The Social Care (Self-Directed Support) (Scotland) draft Bill was first brought before elected members on 28th June 2010: report number 359-2010 and thereafter on 23rd May 2011: report number 252-2011.

In 2011 the Social Work Department on behalf of the Council responded to a Scottish Government consultation on the Social Care (Self-Directed Support) (Scotland) draft Bill following facilitated discussion with a range of focus groups. These focus groups included a carers group, a service user group, a care management group, a legal services group and a contracts staff group. Views from these groups formed part of the Social Work Department's response to the previous consultation.

In preparation for the call for written views, a similar consultative approach has again been used with views again being incorporated into the Social Work Department's response as appended to this report.

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

As previously reported self directed support puts the person at the centre as a participant in shaping the supports and/or services they receive; and allows them to work with professionals, advocates (if appropriate) and their carers. Self directed support is a way for people to get the support they need to be part of their community and to stay fit and healthy.

4.3 The Bill, when enacted, will:

- Make legislative provisions relating to the arranging of care and support (community care services and children's services) in order to provide a range of choices to individuals as to how they are to be provided with their support.
- Provide general principles to guide and inform decisions made under the Bill's framework of duties and powers.
- Introduce the language and terminology of self directed support into statute.

4.4 The Bill sets out four options for self-directed support:

- Option 1 will mean that the person, following an assessment, will receive a direct payment from the local authority. This will enable the person to arrange their own supports/services in order to meet their needs. This option offers people the most choice and control over how their support is delivered.
- Option 2 will mean that the person in need of support, following assessment, will have an identified individual budget for the provision of their support made known to them by the local authority. The person can then choose who they want to deliver their support and the local authority will make the arrangement for the support/services on behalf of the person. This option offers people some choice and control, but less responsibility for arranging how their support is delivered.
- Option 3 will mean that the person in need, following an assessment, will have their support arranged and delivered by the local authority. This might mean that the person will have limited choice and control over how their support is delivered, but with this no responsibility.

- Option 4 will mean that the person in need, following an assessment, can have a mixture of the above options in order to meet their assessed needs.

4.5 **General principles:**

The general principles apply to the local authorities' social welfare responsibilities (the provision of care and support) to both adults and children as set out in part 2 of the Social Work (Scotland) Act 1968 and section 22 to 24 of the Children (Scotland) Act 1995.'

The general principles also apply to the local authorities' responsibility to make sure that the four options available within the Bill are made clearly known to individuals both at the time of their initial assessment and at their subsequent review. The local authority will also have to make sure that:

- the person has as much involvement in shaping their care arrangements as they want
- the person has been provided with the assistance they reasonably need to contribute to the decision making around which type of self directed support they wish
- there is collaboration between the person and the local authority around their assessment of need and the provision of support or services following the assessment.

4.6 **Support for adult carers.**

The Bill, when enacted, will also provide a discretionary power to local authorities to provide adult carers with the same four options under self directed support to meet their own needs as a carer. This can only be considered following an assessment completed under section 12AA (carers assessment relating to those under 18 or over) of the 1968 Act or section 24 (care assessments relating to carers of those under the age of 18) of the 1995 Act.

4.7 **Personalisation Strategy**

As previously reported, the Social Work Department have established a Personalisation Project Board and Project Team to support the implementation of the Bill through the development of a local five year Personalisation Strategy.

The Project Board continues to have representatives from both Social Work and Health and progress on our local strategy is monitored through the Chief Officers Group as well as the Social Work Directorate and Community Health Partnership.

As noted above, the Council's Personalisation Strategy will be for five years and will clearly set out the framework for delivering on the Bill. This is a realistic timeframe given the complexities of several of the issues set out within the Personalisation agenda.

At present although personalisation has been adopted at an individual worker level there are varying levels of understanding and application. It is recognised that there is a need to set out a common definition, approach and strategy for taking this work forward both at the micro and macro level. The scale of staff investment to prepare for the enactment of the Bill is one which the Project Board have considered and deliberated on. As a result of this the Project Board have directed work to commence on developing an implementation plan to support the enactment of the Bill and to bring this to the attention of elected members in the near future.

5.0 **POLICY IMPLICATIONS**

- 5.1 This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management. There are no major issues.

5.2 An Equality Impact Assessment has been carried out and will be made available on the Council website <http://www.dundee.gov.uk/equanddiv/equimpact/>.

6.0 CONSULTATIONS

6.1 The Chief Executive, Director of Corporate Services and Head of Democratic and Legal Services have been consulted in preparation of this report.

7.0 BACKGROUND PAPERS

7.1 Social Care (Self-Directed Support) (Scotland) Bill - Call for written views

7.2 Equality Impact Assessment

Alan G Baird
Director of Social Work

DATE: 11th April 2012

Scottish Government Social Care (Self-Directed Support) (Scotland) Bill - Call for Views

A response by Dundee City Council, Social Work Department.

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

Yes, we are generally in favour of the Bill and its provisions.

- 2) What are your views on the principles proposed?

We continue to welcome the core principles set out in the Bill and find them to be consistent with our preferred approach in developing the range of support options for our citizens. We firmly believe that the three underlying principles in the Bill are essential components when supporting individuals with care and support needs to self determine how much control and involvement in shaping and directing their care and support, as they wish.

We believe that to successfully support our citizens achieve better outcomes in life, we and our Health, Housing and Education partners all need to work together to achieve a cultural shift in our practice and embrace our citizens as equal partners. We believe that the principles will support not only a move to better outcomes for people, but also support new methods of working collaboratively between our citizens and professionals as the Bill's duties and powers are implemented.

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

The four options set out in the Bill will provide those with an assessed need a good range of delivery choices available to them. Clarity of the four options, as set out, is helpful for both citizens and professionals.

We strongly agree that those in need of care and support should have all options of support delivery made known to them and in a manner which they understand and which will lead to citizens being able to make informed choice.

We also recognise that in implementing the Bill there will be challenges to ensure that choices are consistently made known to citizens as the route for assessment, review and service delivery will inevitably come through various pathways.

- 4) Do you have any comment on the proposal that the self-directed support options should be made available to children and their families, together with the proposal that the degree of control a child may have over the process should vary with age?

We agree that self directed support should be made available to children and their families and would expect that they are provided with the same four options as others assessed under relevant legislation as requiring care and support services.

In considering the degree of control a child may have over their care and support arrangements and whether this should vary with age we believe that this links to the child's ability to contribute to the process and that participation and involvement at any level is progressive. We would therefore suggest that age itself is not always the best benchmark as this could potentially dilute the general principles of the Bill.

- 5) Are you satisfied with the provisions relating to the provision of information and advice, together with those concerning the support that should be offered to those who may have difficulty in making an informed decision?

As noted in our previous consultation response, we are satisfied with the provisions set out in the Bill relating to information and advice. With regards to the support that should be offered to those who may have difficulty in making an informed decision we believe that the person should receive as much support as possible in order to reach an informed decision.

We would also acknowledge that control is a very different matter and that our citizens should have the right to decide on the level of control they wish to have in the delivery of their support, care and services. We also firmly agree that this should not be a fixed position as individuals should be able to reconsider their choices as their circumstances change.

As an integral part of our implementation of the Bill we have an expectation that the choice and control options an individual elects will be formally reviewed at least on an annual basis in line with our current practice.

We continue to hold strong reservations around the requirement to discuss and offer all choice options when an individual is initially in a crisis situation and requires immediate support/services to be delivered. At such times it will be neither practicable nor in some circumstances safe to wait for the individual to consider all of the support options available set out in the choice and control "framework" provision. We therefore reiterate our recommendation that a caveat be included to exclude short term crisis situations, which could include measures to address support and protection concerns and enablement provision. We would see this as an interim measure in order to effectively deliver appropriate support while the individual had the opportunity and breathing space to safely consider and explore all four options available to them whilst receiving essential support.

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

Whilst we are supportive of the intention to consolidate direct payments legislation set out in the Bill we do not believe it is possible to provide an unqualified response to this question.

Our interpretation of Section 13 of the Bill is that further provision about direct payments, through secondary legislation, is being proposed without sufficient detail at present to enable us to consider whether what has been proposed will address the change sought by the Government.

In order to ensure fairness any proposed regulatory change will necessitate further consultation, which has the potential to create a delay in fully implementing the Bill.

We are also not convinced that secondary legislation will resolve the underlying tensions between the ambitions of the agenda and the legislative, policy and financial context in which it is to be delivered. It is the resolution of these issues, as well as the weight that legislation will undoubtedly give to the agenda, that will lead to real progress.

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

We completely recognise and value the significant role of our unpaid carers who contribute to a better quality of life for many of our citizens. We also acknowledge that without their support, the health and social care systems just could not cope.

Although we fully recognise that carers have their own needs, there are times when it is less clear where the needs of a carer (an individual with a right to a life of their own) and the needs of the cared for person, begin and end. An example of this could be around the provision of respite or short breaks; if there are conflicting preferences as to how the service response was to be delivered, whose choice would be valued the most and who would make this ultimate decision? This matter we believe has not been fully addressed in the Bill.

We are supportive of the Scottish Government's commitment to supporting unpaid carers. However, we find Section 2 of the Bill ambiguous in that it appears to interchange unhelpfully between powers and duties leaving an uncertainty as to the true intention of the provision in this section. We are concerned about this ambiguity and everything it implies being transferred to local authorities.

- 8) Do you agree with the approach taken by the Scottish Government not to place restrictions on who may be employed by an individual through the proposals in the Bill?

We do not agree with the approach taken by the Scottish Government to not place restrictions on who may be employed by an individual through the proposals of the Bill.

We do not believe that sufficient consideration has been given to safeguarding individuals and ensuring that account has been taken of their informed choices as to who should provide their support. We continue to hold strong reservations about family members being employees other than in exceptional circumstances and even these are subject to monitoring and review processes.

We are surprised that the Scottish Government has not, to our knowledge, carried out some form of audit of adult protection concerns where a family member has been the perpetrator of the protection concern before reaching its decision not to place restrictions on who may be employed.

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

We acknowledge that it is difficult to project the financial implications of implementing the self directed support Bill. The range of potential additional cost considered in the Financial Memorandum is comprehensive and we feel this covers the main areas where these costs may arise. However we have concerns around the assumption that the Bill will be cost neutral in the longer term as the potential savings identified appear to be over-emphasised with additional costs under-emphasised.

There is an expectation that savings could be achieved through more people choosing to arrange support at home as opposed to residential accommodation, however as this has been the general policy direction for a number of years prior to the introduction of self directed support it would be disingenuous to suggest such savings would be due to the introduction of self directed support.

Reduced bureaucracy costs are also expected with the shift of these to individuals. However local authorities still have to manage and monitor the self directed support package and will in effect have to operate different recording systems for those in receipt of self directed support and those receiving traditional style services, resulting in additional costs.

We have concerns about the long term sustainability of the infrastructure required to support self directed support once the allocated short term Scottish Government Funding ceases, particularly with the lack of clearly identified "resource release" opportunities. There is an assumption that transformation costs will be incurred by local authorities over a 3 to 4 year period, however our expectation is that with a gradual take up of self directed support anticipated; double running costs could be incurred over a number of years with continued demand for traditional services, which through running at reduced capacity become inefficient. We would suggest a longer term financial commitment from the Scottish Government would be more appropriate.

10) Are you satisfied in the assessments that have taken place in regard to these matters and in the conclusions reached by the Scottish Government?

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

We agree that the Bill will have the potential to enhance individuals' human rights and individuals will be empowered through genuine co-production towards personal outcomes.

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

We do not have any specific comments about the other provisions contained in the Bill. However, we would want to make the following comment; the language of the Bill and the questions were not found to be accessible to our carer and service user reference groups. Finding the easy read version was not straightforward and the information contained within was insufficient to allow informed answers to the consultation questions.