

# Post-legislative scrutiny of the Social Care (Self-directed Support) (Scotland) Act 2013

## Informal engagement workstreams

Participants from five informal engagement workstreams were asked to develop a set of recommendations for the Health, Social Care and Sport Committee on what it should focus on in phase 2 of its scrutiny. This paper sets out those recommendations.

<b>Individuals with experiences of self-directed support.....</b>	<b>1</b>
<b>Carers.....</b>	<b>3</b>
<b>Social care staff.....</b>	<b>4</b>
<b>Social work staff.....</b>	<b>6</b>
<b>Social care providers.....</b>	<b>10</b>

## Individuals with experiences of self-directed support

### Recommendations

- The Committee should focus on clarifying where the decisions around finance are made within local authorities and prioritise training for finance staff on SDS legislation and statutory guidance within councils because often decisions around finance and budgets are not taken by the same people establishing social care and support needs and this results in changes being made without further discussion.
  - This includes both national budgets as well as individual care budgets and decisions around how Councils use care budgets. The Committee should also seek to clarify what approach to national, local and individual budgeting will be taken through the proposed national care service.
- The Committee should focus on the eligibility criteria and the assessment process because at the moment it is inconsistent across and within local authority areas and too time consuming. The use of eligibility criteria prevents many people from having their care and support needs met and can result in people ending up in crisis situations.
- The Committee should focus on the involvement of independent advocacy during the assessment process because this may make the process more understandable, transparent and any complaints process more robust.
- The Committee should focus on inherent biases in the process because at the moment, not all care and support needs are recorded. Local authorities are reluctant to advertise/record unmet need because it opens them up to accusations of withholding support.

- The Committee should focus on SDS being person led rather than person centred, where regardless of the option someone chooses, they should still be in control of the allocated budget because personal care and social care are often divided and there is sometimes a feeling that if personal care is taken care of then social care is optional.
  - Specifically, the person in receipt of self-directed support should have full control over how they use their budget when employing PA's through option 1 including the use of contingency budget. Maximum flexibility should be part of a direct payment, (examples rather than a very detailed list of activities) to support identified outcomes.
- The Committee should focus on establishing a consistent approach to the assessment process (while maintaining an individual approach to needs and requirements) because too often the legislation is interpreted differently by different local authorities. Consistent staff training across local authorities is also important to ensure that a care package can be easily transitioned when someone moves to a different area.
- The Committee should focus on the co-production, mutual trust and collaboration in the design of care packages because at the moment the process isn't always transparent, and people aren't trusted.
- The Committee should focus on accessibility in all its forms because sometimes the process isn't always communicated in a way that is accessible for the individual (email, voice notes, easy read etc).
- The Committee should focus on ensuring transparency so that the cared for person has access to all notes and can track their journey through the process, and understand what has been agreed.

## Carers

### Recommendations

- The Committee should focus on the availability of independent support before, during and throughout the SDS process because this will provide better support for individuals and their carers and help them feel more confident to manage their social care package and won't create a barrier to them accessing and receiving support.
- The Committee should focus on a more consistent and transparent approach to referrals, the application process, assessment, allocation of resources, eligibility criteria processes and decision making to ensure an equity of provision that doesn't create a barrier to accessing and receiving support.
- The Committee should focus on how effective local authorities are at providing timely and relevant information because at the moment carers and supported people can find it to be a fight to access the support they need.
- The Committee should focus on the length of time it takes for an assessment in some local authority areas because at the moment it feels like there is an emergency response with sifting being based around crisis situations only. Also, children aged over 13 are not being assessed but rather they are having to wait until eligible for adult services (16).
- The Committee should focus on the knowledge and training and skills that HSCP staff have because there is generally very limited knowledge of legislation and requirements.
- The Committee should focus on suggesting/creating an accessible complaints system for meaningful redress when councils and HSCPs fail to meet their statutory SDS obligations and how resulting complaints decisions then inform the SDS process because there does not seem to be transparency around decisions or investigating and upholding complaints. The same Council department who is receiving the complaint is also responsible for investigating the complaint.
- The Committee should focus on how people's outcomes are monitored, and what data and statistics are collected to monitor both the uptake of SDS and funding/spending decisions within Local Authorities because sometimes individuals do not always agree to or want the packages they receive. Sometimes people are told their budget can only be used for hours of support and not for the things they feel will improve outcomes.

## **Social care staff**

### **Recommendations**

#### **Understanding and Education**

- The Committee should focus on training for social workers because at the moment SDS isn't covered in enough detail at University – this is about holistic training regarding outcomes for individuals rather than just teaching the four options so that social workers can effectively communicate what the options are.
- The Committee should focus on a proper plan for supporting social carers because at the moment there is a disparity in pay across different sectors, terms and conditions aren't standardised and employee wellbeing is suffering.
- The Committee should focus on wider training and education for care managers and social workers because these are the people who are dealing with assessments and need to be better at giving the power to those in receipt of support.
  - There also needs to be wider awareness and understanding across the sector so these principles can be put in to practice.
  - It isn't enough to tell people options because this can be overwhelming so reassurance and support is needed to support people to feel confident in choosing each.

#### **Consistency**

- The Committee should focus on ensuring the legislation is fair and is followed because at the moment different authorities seem to interpret it in different ways which leads to a huge disparity in terms of what people are able to access and the support they receive, leading to a lack of fairness. This should involve focusing on:
  - Local Authority leadership
  - Whether a consistent framework is followed across all areas and associated monitoring/scrutiny of preferred choices and what support they receive
  - funding and budgetary processes in relation to SDS - different people have different restrictions on the support they can access, both across different LAs and within areas.

#### **Monitoring and Transparency**

- The Committee should focus on how Local Authorities capture data in relation to SDS, are accountable for ensuring people are living good lives and the legislation is interpreted in the right way, and how funding is spent, because otherwise how can you promote good practice and ensure fairness is applied across all.

- The Committee should focus on social care capacity, workforce and structure because otherwise you will never have the staff to deliver the ethos of SDS.
- The Committee should focus on regulation of social care providers because we need to ensure the right workforce is in place to deliver SDS.

### **Awareness**

- The Committee should focus on how Social Workers can be given the time they need to be involved in the community that they are a part of because most are still working to a time and task model which the legislation was supposed to have been removed.
- The Committee should focus on education of social workers at the ground level and understanding of what SDS and other assessments are, because there does not seem to be up-to-date materials to describe and promote SDS or what it involves.
- The Committee should focus on what constant and consistent information is available and if that is updated regularly because people get SDS but are not aware of it. They should know about it and know they have rights and their choices. (Some people do know, but others do not). This should not be an individual awareness campaign but ongoing and constant support and information.
- The Committee should focus on recommending that the Scottish Government consider developing a one-stop shop on resources that are available online because online information seems to be focused on the legislation instead of support for individuals and what they can expect from SDS.

## **Social work staff**

### **Recommendations**

#### **Resource/budgets**

- The Committee should focus on resources and how that relates to other areas because we need people to understand the inter-connectedness of issues. It's not a simple solution, but a careful combination of things that need to happen.
- The Committee should focus on the resources that support making SDS a reality for more people - resource in terms of financial and budget aspects, but also on other aspects such as - workforce (social care and social work), capacity, workload, community resources, individual resources - that can hinder the ability to deliver because if there is a finite resource you have to think outside the box and be a bit more creative. If we can't recruit into the SC and SW workforce, we don't have the manpower to deliver the resources that support making SDS a reality for more people.
- The Committee should focus on making sure spend delivers on people's outcomes because not all direct payments are not used as intended and exploring the reasons for that.
- The Committee should focus on unmet need and the assumption that this is on hours because people are not being supported to focus on improving their outcomes. There also need to be a recognition that people's outcomes change and the process at the moment does not necessarily allow for growth to happen
- The Committee should revisit the initial assumptions of cost neutrality of SDS because to deliver more choice, flexibility and control and to provide support to people to make decisions = additional investment. When in house services were stopped, the money wasn't reinvested in social care, but used for savings. This was because Las had to make budget cuts.
- The Committee should carefully consider the impact of the introduction of the NCS on social care, because the introduction of integration created unforeseen challenges for all the partners which in turn profoundly affected social care and the delivery of Self -directed support.
- The committee should focus on eligibility criteria from the point of view of overall resource, expectation management and assessment because it is a tool to identify needs and acuity of need.
- The Committee should focus on university training of Social Workers on SDS as the delivery mechanism for social care because it is the way it should be delivered.
- The Committee should focus on the challenges created by other legislation in delivering SDS – such as procurement, Adult Support and Protection, Public Bodies Act and the NCS to ensure that all are directed at delivering SDS.

- The Committee should focus on the challenges of Option 1 around expectation management, availability of services, accountability because this is one element that produces inconsistency (financial risk aversion, lack of clarity on what social care is for).
- The Committee should focus on parity between children's social work and adult social work because the legislation applies to both equally. Children's services tend to have more relationship based practice (rather than caseload based, as in adult services). We need relationship-based practice in adults services to support the person-led nature of SDS.
- The Committee should also focus on workforce planning according to demand rather than supply and looking at upcoming retirements.
- The Committee should focus on a national approach to terms and conditions for social work staff because they are not consistent nationally.

### **Workforce challenges**

- The Committee should focus on the ability to recruit into social care because it is the worst it has been for many years. There are lots of pressures facing workers and there is not always the time to do all of the introductory preparation that is needed, they have to go in and deliver care or do assessments straight away. Better pay would be good, but it's not just about money, the support is not there – there are not enough managers to provide compassionate support for staff so they have the confidence to raise issues and to promote risk-enablement and risk management. Staff do not have the professional confidence. There does not seem to be the buy-in from leadership to have the time to have conversations. People want the autonomy to deliver the work, but they also want a set process.
- The Committee should focus on the ability of areas to join the dots between HSCP areas and whether they have the leadership to support and mentor staff because fragmented leadership is an issue in social work; due to integration many social workers are managed by NHS managers under a medical model approach. The Committee should focus on training and buy in from health colleagues because it is less about the availability of training around SDS, but health colleagues having the time to avail themselves of the training.
- The Committee should focus on working with individuals in a relationship-based way – this is foundational to making conversations a reality instead of a budget-led process – resource allocation etc. Practitioners need to feel empowered and skilled to deliver an asset-led approach, which becomes a golden thread then throughout the SDS process. The budget should follow that – the budget is just part of that asset map. This approach needs investment in staff and leadership to deliver.
- The Committee should focus on appropriate skills-based and outcomes-focussed training (rather than process-driven training) for staff, as most training just now focuses on navigating operational systems, rather than how SDS should be implemented in practice.

- The committee should focus on the overarching framework and legislation as it is too open to interpretation – some variances across local authority areas are understandable but this requires a more appropriate balance in the legislation.

### **Outcomes focus**

- The Committee should focus on shifting the focus to practitioners being free to deliver the work because there needs to be collaboration between service users on outcomes, without money getting in the way. We should start with a relationship-based approach and staff should be supported to do so.
- The Committee should focus on defining what outcomes are, rather than defining support in terms of time. Individuals often are not interested in social work terminology and just want a certain amount of time as this is easier to understand. There is still a bit of work to do with people about what SDS is and what it means and not just about allocating time. There are also different specialities within social work, some social workers are not bought into the conversation about outcomes or SDS. There is a heavy influence from health colleagues who are time and task based. NHS is a stronger voice than social work – need to give parity to the professionalism of social work.
- The Committee should focus on putting relationship-based practice at the forefront of SDS delivery (rather than case-management practice) – focussing on service-user choice and control in a way that will not overwhelm the user – because this will allow for the intentions of SDS to be realised.

### **Consistency**

- The Committee should focus on lack of consistency within Local Authorities, as well as across different Local Authorities, which is down to the categorisation of different care groups because SDS has been rolled out differently in different care groups which causes a disparity and unfairness.
  - Different areas sometimes have more budget to meet those needs. Where does it make sense to have variation and where is there unnecessary variation?
  - Need a national approach that has national consistency, but allows for necessary variation that is needed. Bigger picture of how it is shaped across Scotland.
  - There is also a need to allow for movement from one area to another without a change in the level of care and support.
- The Committee should focus on standards that sit at a useful level, and an overarching framework which demonstrates what good looks like in SDS and allow space in the National Care Service and NSWA to unpack how that works and what that looks like.
- The Committee should focus on all aspects of consistency:
  - Between local authorities



- Within local authorities – different for children, older people, people with disabilities, addiction/homelessness
- Different geographies within and between local authorities – what's available in an urban setting and rurally within the same authority
- Consistency of practice between different staff as well as different areas.

Because if consistency isn't defined in all these and other contexts, then talking about improving consistency is meaningless.

- The Committee should focus on social work and social work practice because social workers are the key to delivery of SDS: through their practice, their duties, the relationships with people needing care and support and with other functions within the local authority and in the MDTs (other professions and social care staff).
- The Committee should focus on public understanding of social care, not only SDS, but assessment processes and finance because of the very varying expectations of what SDS is for and how it is delivered.

## **Social care providers**

### **Recommendations**

#### **Rural/Consistency**

- The Committee should focus on why all local authorities are not recognising people's right to choice, control and dignified support regardless of where they live, because by not doing that human rights are being contravened and the legislation is not being followed. Some individuals don't have a choice because they're not offered it, others are not because there is no one to fulfil it.
- The Committee should focus on how commissioners develop marketplaces because there are areas where choices aren't available because there aren't marketplaces and providers in that area to deliver that support.
- The Committee should focus on all geographies in Scotland in a way that's unique to them because it's not just rural areas that experience issues with SDS. (There may be more issues in rural areas, but that's a delivery mechanism. It's about everyone having access to SDS regardless of where they live.).
- The Committee should focus on why local authorities do not discuss SDS options at assessment and then put that out to external providers.
- The Committee should focus on equity of SDS implementation across all rural and urban areas because it should be viewed as an investment and a catalyst to improve lives in different ways, by generating employment and income, which potentially can build towards developing infrastructure.
- The Committee should focus on understanding why there are different approaches to SDS in different local authority areas – such as 'time and task' in Glasgow and opportunity-focused in Falkirk – because these differences lead to inefficient and inequitable service delivery.

#### **Pressure**

- The Committee should focus on how we ensure we have the workforce for the future, which includes fair work and fair pay across all sectors because a lot of the pressures are created due to disparities between providers and sectors. There needs to be a focus on the human rights of the whole workforce and not driving that workforce into the ground trying to deliver everything.
- The Committee should focus on a move away from time and task because a different approach can be transformational for people's support.
- The Committee should focus on financial pressures on providers because all funding is per-hour and not conducive to the care that people need.

- The Committee should focus on why we're not taking a whole system approach where health and social care are valued in the same way because it is becoming increasingly difficult to recruit into social care.
- The Committee should focus on Section 19 of the SDS Act – sustainability of the sector - in terms of workforce because that urgently needs to be addressed.
- The Committee should focus on a way of working where there is less micro-management of, and more trust in, service providers, because the providers have great experience and knowledge in SDS implementation and collaborate well to share information – there has to be a shift in power, and a willingness of some to let the power go.

### **Ethical commissioning**

- The Committee should focus on why ethical commissioning does not happen because there have been great experiences of initial collaborative commissioning conversations only for tenders to then be put out via restrictive procurement processes.
- The Committee should focus on why competitive tendering still takes place because it is not right for social care as it doesn't respect the rights for individuals to choose who provides their care and it's not right for organisations providing that care.
- The Committee should focus on why people are getting less budget depending which option in SDS that you choose, because sometimes if you choose option 3 you get free care, if you choose options 1 or 2 you have to provide a top-up fee.
- The Committee should focus on local authorities using resources efficiently, because third sector and independent providers are under far more pressure to do so than the public sector.
- The Committee should focus on building towards a relationships-based practice again, as this way of working has been replaced with something more transactional – i.e., hours of care met, 15-minute meeting completed. This involves understanding the price of something, compared to the value of something.
- The Committee should focus on building trust and candour between all parties involved with SDS (Scottish Government, local authorities, providers, communities) as a lack of trust and joined-up-thinking is a hindrance.
- The Committee should focus on ethical commissioning because we need to move towards a culture of openness, trust and collaboration; where we (supported people, communities, providers and local authorities) help each other out as equal partners and our approaches are underpinned by learning and continuous improvement approaches to enable everyone to reach their full potential.

- The Committee should focus on ensuring there is a process of constructive, overt and explicit test and challenge because there needs to be a process for active and transparent continuous improvement. There is nothing in the system currently that pushes improvement. Mistakes are made over and over and nothing to address system failure.

## **Choice**

- The Committee should focus on the infrastructure of support around SDS because people don't know what it is and see it as a complicated thing and can be too tired or burnt out to make a choice. It works for some people but not for others.
- The Committee should focus on the mistrust in the system because individuals and providers are not abusing the SDS process.
- The Committee should focus on why people are not trusted to make the decisions that are right for them, and providers to provide the support people need.
- The Committee should focus on ensuring SWS understand SDS because without that, there is no chance.
- The Committee should focus on developing the understanding of rights around choice, as SDS should be used as a tool to deliver on people's human rights and treat each other with dignity.