

Barnardo's Scotland's Response to Social Care (Self-directed Support) (Scotland) Bill – Stage One Consultation

• **Are you generally in favour of the Bill and its provisions?**

Barnardo's Scotland is in favour of the general principles underlying the Bill. We believe that people have the right to control and choice in all aspects of their lives, especially when choosing what care they receive and how they receive it.

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

Barnardo's Scotland agrees with the options for self-directed support set out in Section 3 of the draft Bill.

With regards to the provision of information about self-directed support set in Section 8, we would urge local authorities and the Scottish Government to present information in a format accessible to children. We have responded to this further in the last section of this response.

• **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?**

Section 7 of the draft Bill, which relates to options for children and family members, is of most relevance to Barnardo's Scotland.

We are concerned that there has not been sufficient testing of self-directed support when relating to children. Three local authorities took part in the SDS pilot programme. Of the case studies reviewed in the evaluation of the programme, however, only a very small minority of them related to children. The focus of this work has been largely geared towards adults and adult services.

We believe that much more comprehensive evidence needs to be gathered regarding children and SDS to ensure that it can be delivered effectively to support their needs. There is not yet sufficient evidence available to support services and providers to make changes in order to operate effectively in the new system and this could ultimately lead to problems in the delivery of services. There is still not enough evidence to support local authorities and social workers to fully understand how this

will work in supporting children and families, and there is not enough evidence to reassure the families and children that moving into this system will provide them with the best possible care and deliver on the principles of the Bill.

Section 7 (6) makes it clear that once a certain chronological age is achieved a child is presumed to be of sufficient maturity to form views regarding their self-directed support. Barnardo's Scotland believes that if a child's cognitive ability is not also considered then there is a danger that the child/young person will be set-up to fail, as decisions may not be made based on the child's full 'understanding', but simply reflect what the child and young person has asked for.

With regards to section 7, it is our view that the Scottish Government should consider a longer lead in time for implementing this section of the Bill until comprehensive evidence has been gathered and a full analysis of pilot programmes has been completed on SDS for children and young people. There are currently a number of projects and programmes being undertaken to assess how SDS can and will work for children and families and we believe that the findings from this work should be considered before this element of the legislation comes into force.

If legislation is rushed to implementation then this could quickly lead to significant, unanticipated, problems arising in ensuring the right service is delivered in the right way to children and their families.

- **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?**

Barnardo's Scotland believes that the Scottish Government should consider developing a Register of all Carers and Personal Assistants (with the exception of family members) and anyone else in receipt of funds to provide a service as a result of the legislation.

The Scottish Government has taken great steps to ensure a culture of child protection for our children and families in service provision and this must be reflected in this new system. It should be a condition of funding that only those listed on such a register can be eligible to be employed by families and children, particularly when working directly with children.

Registers for those working in caring roles with children already exist, such as the child minder's register and the Scottish Social Services Council (SSSC) register. The Scottish Government should consider looking at ways of expanding the SSSC Register to fulfil this role.

Government and local authorities should consider the training needs for potential personal assistants and those that might be employed into a caring role from a non-professional background.

We also believe that those that are employed by individuals and their families to carry out care and support must be on the PVG register.

We are concerned that in some circumstances those who will be employed to deliver services or care may not have the appropriate training and will therefore not be able to deliver the same quality and level of service as received before or by an appropriately qualified professional.

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

One of our major concerns regarding this legislation is that it will lead to a postcode lottery of support and service delivery across Scotland.

Within the legislation or explanatory notes there is no indication with regards to timescales for full implementation of the new system. There are a number of potential issues that arise out of timescales. By leaving timescales open some local authorities may take considerably longer than others to introduce the new system, which would exacerbate the postcode lottery effect. If a timetable is set, depending on when, it may rush local authorities to introduce the system when it is not ready to do so, which would have a significant effect on service users.

Barnardo's Scotland would like the Scottish Government to consider introducing an agreed timetable for implementation, bearing in mind our comments relating to section 7 above, and also consider individual timetables for each local authority to reflect their readiness.

We are also concerned about oversight, and would like the Scottish Government to clarify what oversight will there be across the local authorities by the Scottish Government to ensure that SDS is being implemented as envisaged by the Government. What sanctions will be imposed on those local authorities deemed to be failing?

Advocacy services

Under the new system there is likely to be a greater need for advocacy services to support people with disagreements with decisions by the council, disagreements with service providers, and other areas of dispute.

It is not clear who will provide these advocacy services and how they will be funded. For example, will budget holders be expected to pay for advocacy services out of their individual budgets?

Will those in the employ of service users, such as Personal Assistants, be able to act as advocates? If this is the case then there would be the potential for conflicts of interests, as such employees might gain financially as a result of decisions they have advocated for.

We are concerned that there will not be enough independent advocates available to appropriately support those in the system.

As the new system unfolds there is likely to be a greater demand in the short term for advocacy services as the system beds in. The Government/local authorities will need to ensure that services users can access the support they need.

Children, young people and families could also face a dilemma if they employ family members and close associates in caring and personal assistant roles. It would seem unlikely that they would use advocacy services against their own family members if they are not getting the service they need.

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

Barnardo's Scotland recognise that the Scottish Government has identified funding in the short term to support the transition to the new self-directed support options. However, we have concerns with regards to this transition and available funding.

Principally, we have a concern with how quickly people will be moved over to the new funding options. If there isn't sufficient available funding then there could be significant waiting lists for direct payments.

The Financial Memorandum highlights the potential concerns with bridging costs and states (p23) that there is little evidence to show how much is required. A lot of local government funding will be tied up in commissioned services and would be difficult to withdraw quickly.

We would have some concerns if local authorities withdrew funding rapidly from commissioned services, as this may affect those services, particularly for providers contracted by local authorities. We understand that local authorities may be obligated, at least in the short term, to provide both commissioned/contracted services and SDS support packages to individuals and their families that may choose not to use

those support packages. This would cause significant financial pressure for local authorities, at a time of growing economic pressures.

We understand, but are concerned that some of the administration costs of providing care will transfer to the individual and their family and we hope that local authorities will ensure that such costs are factored into assessments of final budgets presented to those in receipt of direct payments or individual budgets.

With regards to wider costs associated with moving on to the SDS system we also have a number of concerns.

We are concerned that the year-on-year value of recipient's budget will decrease in real terms, if budget rises do not increase inline with the price/cost of services. The Scottish Government and local authorities must work to ensure that service users are protected from price increases by providers and explore options of linking budget rises with the rise in provider costs.

When moving to direct payments and individual budgets it is essential that local authorities ensure that recipients receive the equivalent level of funding to afford the same level of service they would receive from commissioned services. If value of what they get in their budget is not the same as what they would receive in commissioned services then the family will receive a loss of service.

We also concerned about the rising cost of services, particularly specialised services for children. It will be crucial for the Scottish Government and local authorities to monitor the costs of services and ensure that those in need of specialist services are not priced out.

In the current financial climate service providers, such as charities, will increasingly be unlikely to be able to subsidise services through voluntary funds. This will likely mean an increase in the cost of services available to individuals and their families, which may increase at a quicker rate than children and their families-allocated budget.

Barnardo's Scotland also has some concerns that the shift towards the personalisation agenda might be used by some local authorities across Scotland as a way of making savings and reducing costs. Such an approach could have significant negative effects for service users and their families and carers. It would also be against the spirit of the legislation.

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

Information and knowledge

We are concerned that the level of knowledge and information needed to understand the proposed system is substantial and that without adequate support children and their families will face difficulties in maximising their options and receiving the best service suited to their needs.

Information must also be given in good time, as families need as much time as is possible in order to make informed decisions.

Information must also be made available to families and children in an easily understood way and empower them to make the choices that best reflect their needs.

There is no provision for training and support for managing budgets within the Bill or its supporting documents. We have concerns that those without experience or support in managing budgets may not manage them appropriately and may fail. If this happens what provisions will there be to protect and support the individual and their families?

For example, if a child is given a 12 month budget up front and spend it all in the first nine months what would a local authority do? Would they take over service provision, provide more budget or would the family be left to find the money themselves? This is especially relevant to children as local authorities have a duty of care to them.

Training should include awareness around the costs of services. We are concerned that there families will be awarded substantial amounts of money without the perception and understanding of the value of that budget when compared to the costs of services and this may affect choices.

Barnardo's Scotland believes that local authorities should ensure that adequate training is provided to all those given individual budgets before they receive it. There should also be provisions in place for the local authorities to carry out short term/crisis reviews of families and individuals. We would also recommend that consideration is given to the monthly release of allocated budgets.

There will also be a need for children and their families to be provided with up-to-date information on all services available to them in their surrounding areas and the costs of those services. This information

should be managed by the local authorities and shared with social workers and those supporting families and individuals.

The role of the social worker

Barnardo's Scotland recognises the hard work and dedication given to their professions by social workers across Scotland. Following this legislation the role of the social worker will be essential in ensuring that service users and their families understand what options are available to them and how they can best exercise their choices in order to receive the best care and support possible.

The role of the social worker in facilitating the personalisation agenda with children, young people and their families is one that will carry significant influence and power, and as such it will be crucial for social workers to understand the responsibilities that come with that.

First and foremost social work staff must see the relationship as a partnership. Social workers should use their position to inform and advise not to influence and prescribe what the best options for families are. The objectives of care and support should always be outcome focused and not dictated by available resource. This position must be set out clearly in guidelines.

Ensuring that all social workers are given appropriate training and support in both the functions and the spirit of personalisation and self directed support will be essential in ensuring that children, young people and families' needs and choices are met.

We are concerned that the proposed legislation and accompanying documentation says little with regards to available training for social workers and staff, as well as timescales for completing this training, which we believe to be an essential component to the successful role out of self-directed support.

Assessment

The success of self-directed support relies heavily on greater involvement of children, young people and their families from the initial stage of 'assessment of need' through to making informed decisions and for some going onto be employers and manage their allocated budget.

From the outset it is vital that all aspects of collaboration between the local authority, children, young people and their family, should be outcome and needs focused rather than resource led. If decisions become resource led then there is a great danger in creating a dichotomy between 'quality' and 'quantity' as children, young people

and their families' are forced to take a lower cost services in order to receive the quantity of support they need. If this happens then it is likely to assume that many specialist services will struggle to be sustainable. Therefore Barnardo's would suggest it would be prudent that the role of specialist services, within Scotland, is given further consideration in the context of self-directed support.

An asset-based, community-wide approach

The proposed legislation is an opportunity to shift the culture of how we deliver care in Scotland. As well as engraining control and choice into the lives of those that need care and support it is an opportunity to move towards an asset-based approach to assessment and one that considers the whole community and not just the individual. This would relate to the words of the Christie Commission quoted under point three in the policy memorandum that services are "built around people and communities, their needs aspirations, capacities and skills."

It is Barnardo's experience that far too often current assessments do not consider the whole community in developing care packages. We believe that there are substantial untapped resources within communities throughout Scotland that could be utilised to support people. This would tie in with Principle 3 of the Bill. In the policy memorandum under point 20 where it states, "Assessment processes based on identifying strengths, assets and opportunities and agreeing desired outcomes, represent best practice in relation to this principle."

Under the new system and with the upcoming changes to the benefits system there will also be a key role for community groups and benefits advice services to ensure that people are maximising their income. Local authorities and community resources must be encouraged to work closer together.

Barnardo's Scotland would like to see the Scottish Government undertake a substantial community mapping exercise, which would identify community resources and assets across Scotland. The findings of this exercise should be disseminated widely to children, young people and their families, service providers, community projects and leaders and serve to play an important role in service planning and delivery.

The changing nature of providers

The move towards SDS will create a market which will allow the emergence of much stronger private forces, both larger organisations and much smaller one-person operations. This presents both opportunities and challenges.

Many private organisations are already in or better positioned to advertise within the 'social market place' and to provide low cost basic support packages. 'More for less' is an attractive commodity that children, young people and their families may choose to buy as they take decisions based on their finances rather than care and support needs.

The Government, as far as possible, needs to ensure that all providers deliver a guaranteed level of support and service based on the assessment and outcome needs of those they are supporting. Moves must also be made to protect against a race to the bottom, as private organisations/individuals seek to be the most competitive financially.

Furthermore we are concerned that with an influx of low-cost private providers there is the possibility that service users may be targeted by 'hard sell' marketing. The Government will need to ensure that safeguards are in place to allow individuals and families to make quick changes to their care, regardless of provider, if it is not delivering what the family and individual needs/wants. There needs to be an element of contract protection for families and individuals in entering a commercial relationship with providers.

Central and local government will need to ensure that such activity is monitored and regulated, if necessary, to ensure that individuals and families are properly protected.

Barnardo's Scotland would like the Scottish Government to consider a Quality Charter, Kite Mark or Approved Provider system to ensure that services offered meet certain standards. This will also reassure those purchasing services that their providers are safe, trustworthy and of high quality.

Safeguarding

Barnardo's Scotland has a number of concerns regarding safeguarding.

Firstly, ensuring appropriate child protection is in place to make certain that those employed by children and young people and their families have the appropriate training and have been properly vetted is essential.

Financial safeguarding is also a crucial element in getting this system right. Barnardo's Scotland has some concerns that those in receipt of Direct Payments and individual budgets will be open to exploitation and abuse, especially if they are particularly vulnerable. This could be at the hands of family members or close associates.

The Scottish Government and local authorities will have to make sure that adequate safeguards are in place to protect budget holders from exploitation and to ensure that funds are being spent entirely on services to support their care and outcome plans.

Barnardo's Scotland would recommend that the Government, consider exploring a number of options to do this including a pre-paid card system which would enable local government to track where the money has been spent. Edinburgh City Council has tried out such a system.

The right budgets for the right people

We have some concerns about ensuring the right people receive the right budget and are assessed appropriately.

For example, in the case of a child with disabilities and a parental carer will the parent/carer assessment of need and allocated budgets be viewed separately from the assessment of need and allocated budget for their child with disabilities?

We would be concerned if budgets not allocated in this way might see carers/parents entitled to services, such as respite care, but not taking them as they elect to spend their resource on their child.

It will be important for guidelines to ensure that everyone entitled to support within a household receives that support.

About Barnardo's Scotland

Barnardo's Scotland works with more than 10,000 children, young people and their families in 98 specialised projects in communities across Scotland.

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