



Health, Social Care and Sport
Committee
The Scottish Parliament
Edinburgh
EH99 1SP

Self Directed Support Scotland
Norton Park, 57 Albion Road
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EH7 5QY

17 June 2024

Dear Ms Haughey,

Follow-up to attendance at HSCS Committee, 4 June 2024

Thank you for inviting us to submit further evidence to the post-legislative scrutiny of the Social Care (Self-directed Support) (Scotland) Act 2013 following my attendance at the Health, Social Care and Sport Committee hearing on 4 June 2024.

Please find our responses to your additional questions below. We are happy to provide any further information to the Committee as required.

Yours sincerely,

Donald Macleod

Chief Executive Officer

Self Directed Support Scotland

National SDS Collaboration

What do you regard as the priorities for improvements to SDS?

We believe the greatest barrier in the implementation of SDS is the wider enabling context which would allow the legislation to be implemented as written. This is a complex picture influenced by a number of factors. There are several such factors, but we would highlight the following ones.

Knowledge of social workers varies, mainly due to the lack of SDS teaching within the curriculum for undergraduate students and the mix of qualified and unqualified roles within social work. This is also impacted by the lack of time for CPD and availability of ongoing training. During the pandemic, SDSS delivered sessions for three undergraduate programmes, co-produced with people with lived experience, which were well received, the feedback indicating improved understanding of delivery.

The lack of relationship-based practice is related to this, minimising the context in which good conversations will take place, as social workers through a Care Management model. We, along with Social Work Scotland would advocate for a relationship-based one.

Although well established in some areas, in improving access to independence within the community, there is a need for more community brokerage nationally, as an independent, community-based support. SDSS currently delivers a three pronged Community Brokerage approach: framework, SQA award, community if practice. The embedding and central funding of this approach is critical.

Independent Support Organisations, those which support people to determine and arrange their support arrangements, are critically underfunded, with disabled people led organisations being the most significantly affected here, their members often expressing the view that their lives have been devalued and deprioritised during the pandemic. Priority in capacity building must be given to these organisations.

Compounded by all of this is the significant local variation in SDS implementation, for example in relation to Direct Payment agreements. It is hoped that the work of the Direct Payment subgroup of the Personal Assistant Programme Board will bring about standardisation of approach in this regard.

The SDS Act is designed to give individuals choice, control and flexibility around their support, but in practice this choice is limited by the availability of suitable support services across Scotland.

This is currently most acute in the availability of appropriate support through Options 2 and 3, where we are aware that an increasing number of people who need support are having to take on the responsibility of managing a Direct Payment (Option 1), to either contract support providers directly or employ Personal Assistants.

This situation undermines the original intent of the SDS Act, and in practice means the responsibility of commissioning, managing and administering support is increasingly being shifted from Local Authorities to individuals, many of whom do not have the time, energy, skills or knowledge to be able to do so without experiencing considerable stress and distress, in an already challenging situation.

This failure of the system has also led to increased anxiety among policymakers around the risks to individuals in contracting their own support, resulting in paternalistic moves to further safeguarding for those contracting with Personal Assistants, in terms of moves towards a registered workforce. While policymakers are quick to identify risks and implement changes which they believe would support individuals – but would actually have a detrimental effect on those who actively choose to employ Personal Assistants – they have been slower to recognise the support needed to enable people to successfully manage a Direct Payment and/or employ Personal Assistants. We discuss in our response to a later question, the increased resource we believe is needed for Centres for Inclusive Living and Disabled

People's Organisations to enable individuals to access the type of support and training that would enable them to successfully direct their own support.

While there are some activities related to commissioning in the Improvement Plan, intended to address the challenges around the availability of services via Options 2 and 3, we believe the investment needed to enable the wider transformation in the social care system is outwith the scope of the Improvement Plan.

What has been achieved by the National SDS Collaboration so far and in your opinion, what more needs to be done?

The National SDS Collaboration first met in Spring 2022 and in a short period of time has become an established space for those with a stake in SDS Improvement to share practice, engage in national policy development, and importantly, build strong working relationships across different parts of the sector, to facilitate more effective working.

Key to the achievements of the Collaboration so far, and fundamental to its ongoing success, is the involvement of Scottish Government and COSLA as partners.

One of the first achievements of the Collaboration was to successfully advocate for the need for a new improvement plan following the expiry of the previous strategic driver, the SDS Implementation Plan 2019-2021. Building on the strength of knowledge and experience of Collaboration members, the process for creating the plan, which included sector-wide consultation and engagement with people with lived experience, was agreed.

Alongside this work, the National SDS Collaboration has engaged with several policy areas, including the Dementia, Transitions, Learning Disability and Neurodiversity and Disability Equality teams. This proactive engagement has begun to raise the understanding of Self-directed Support within these areas,

but would be further bolstered by greater joined-up working with Scottish Government across different policy teams.

The National SDS Collaboration is an informal, voluntary space, and is facilitated to meet monthly by SDSS and Social Work Scotland without dedicated resources. Modest investment in this space would enable the Collaboration to build on the achievements so far. The effectiveness of the collaboration would also be bolstered by greater involvement from people with lived experience of social care support, however this requires sufficiently resourced capacity building support to enable full and meaningful involvement.

Improvement Plan

Do you think the Plan can work given the current budgetary constraints and recruitment and retention challenges in social care?

We believe the SDS Improvement Plan will have a positive effect on the implementation of SDS, and that the outcomes which SDSS has been funded to deliver as part of this plan are achievable.

However, we also believe that the Improvement Plan will not solve all challenges around SDS implementation on its own. Addressing these challenges requires a wider enabling context – namely a social work and social care system which is not operating in crisis mode.

As we noted in our original submission to the call for evidence for this Post-Legislative Scrutiny process, there are acute challenges across the board in recruitment, retention and training in social work and social care; the availability of appropriate care and support services; and in Local Authority budget constraints leading to the implementation of eligibility criteria, severely limiting access to support.

In order to ensure continued and ongoing improvement, and enable the activities resourced within the Plan to have the greatest impact, these fundamental issues must be addressed.

Is the resourcing for the Plan (£7,547,000 in the last financial year) sufficient to embed identifiable changes in the system?

We believe the current level of resourcing is sufficient to embed *identifiable* changes, but not the *transformational* changes required for true SDS improvement.

As noted above, a holistic approach is required in order to create the right environment for SDS to be implemented successfully. It should also be noted that challenges in one part of the system have a knock-on impact on others. Where this is particularly acute is in the Independent SDS Support sector, where organisations funded through the Support in the Right Direction stream are facing increasing demands on their services due to lack of appropriate provision elsewhere. This includes supporting individuals to access community support when they don't meet the eligibility threshold for support through their Local Authority; being commissioned to carry out assessment and support planning with individuals due to lack of resource, time and skills within Local Authority social work teams; and increasingly, providing intense support to individuals who have had to take on responsibility for managing a Direct Payment due to the lack of available services through Options 2 and 3.

The resourcing that has been committed specifically to SDS Improvement in this funding cycle will enable some existing work to continue, and enable the development of new resources and tools to bring about some change, but is unlikely to bring about the wholesale change that is needed in order to realise the potential of the legislation.

Is there further work that your organisation would like to undertake, if more resource was available? Please provide further details.

There are two specific pieces of work which we have advocated for and are keen to pursue, but have not been granted resource to take forward:

- A freephone Self-directed Support helpline, which arose as a recommendation from the [My Support My Choice research](#) we carried out in partnership with the ALLIANCE in 2020-21. Currently there is no single point of contact for individuals who need information about Self-directed Support, and a free helpline would not only meet Outcome 1 of the SDS Improvement Plan (**supported person and carer's choice over their support**, where success means access to information, advice and advocacy, access to quality support, and control and involvement for supported people over how it is delivered) but would also be a rich source of data and evidence on SDS implementation across Scotland, guiding the focus of future improvement work.
- A programme of work to support PA Employers, giving parity with the work of the Personal Assistant Programme Board.
- Investment in Centres for Inclusive Living and Disabled People's Organisations, with a particular focus on supporting individuals who wish to direct their own support via Option 1.

In addition to the specific workstreams noted above, given further resources we would expand our existing work to increase access to SDS for under-represented groups (as noted in the [Golden Threads](#) of the Improvement Plan). We would be able to build on our research into the barriers facing autistic people, people living with dementia, and people who use substances in accessing SDS, to look at the experience of other client groups and take forward focused activities to address these challenges.

Will all the outcomes be achieved by 2027? If not, what could prevent this from happening?

As noted above, we believe that the specific activities in the Improvement Plan which we have been funded to deliver are achievable, however the realisation of the four overall outcomes (supported person and carer's choice over their support, enhanced worker skills, practice and autonomy, systems and culture, and leaders understand and help staff realise SDS principles and values) relies on the wider enabling culture of which the SDS Improvement Plan is just part.

As part of the development of a Monitoring and Evaluation approach for the SDS Improvement Plan, a risk register is being collated to identify the risks to the success of the overall plan and the mitigating actions that need to be taken.

Do you have a funding commitment from Scottish Government for the lifetime of the Improvement Plan?

No. We receive grant funding from the Adult Social Care Local Improvement and Transformation Division on an annual basis, we also receive separate funding from the Adult Social Care Workforce & Fair Work Division for activities aligned to the work of the Personal Assistant Programme Board, which is noted as a Dependency in the Improvement Plan.

This funding is granted in a yearly cycle, and applications are made around the start of each calendar year with decisions on funding often not confirmed until the very end of the financial year, and in some cases past this point.

This precarious funding cycle places SDSS and other grant-funded organisations in a very vulnerable position, and impacts on the efficacy of our

work. Deliverables cannot be planned over more than one year, limiting funded projects to only those which can be achieved in the space of 12 months or less, precluding more complex pieces of work.

The yearly funding cycle also affects our small staff team, whose contracts are not able to be renewed until funding is confirmed. It further affects recruitment of talented and skilled candidates who are less attracted to fixed term contracts.

Do you (or the Collaboration) have clear indicators and an overall coherent framework of the success of the Plan?

Since the SDS Improvement Plan was published, a subgroup of the National SDS Collaboration has been working to co-produce a Monitoring and Evaluation approach for the plan. Stakeholders involved in this process have advocated for a learning approach to evaluation, to ensure the barriers and enablers to implementation are identified.

A final Monitoring and Evaluation Plan is expected to be confirmed by the Collaboration in the next few months.

SDSS reports regularly to Scottish Government on progress on our funded deliverables and has a clear framework to judge the impact of the projects, based on our grant deliverables.

Specific activities within the Plan

Which of the activities in the Improvement Plan deal with the fundamental issues with SDS delivery relating to local authority processes? What issues would you identify with local authority processes in delivering self-directed support?

Our *My Support My Choice* research, conducted in 2020-21, reflects the experience of more than 600 people in accessing Self-directed Support, and many of its recommendations relate to Local Authority processes, including:

- improved training and education for social work professionals working in other areas eg. substance use, housing and homelessness
- Improved transparency on timelines for accessing social care support, and transparency over when and how decisions are made
- ensuring social work professionals have sufficient time allocated for needs assessments, review meetings, and to review case notes
- targeted support for people discharged from hospital, to ensure any support put in place in an emergency is reviewed
- improved accessibility in contact methods with Local Authorities
- improved accessibility throughout the SDS journey, including access to translators, interpreters and accessible information
- more transparent information about care charges
- work to ensure relationship-based practice is embedded in social work teams – this relates to respect, trust, equalities issues, communication and transparency
- improved knowledge and signposting to local independent support and advocacy.

Alongside processes for delivery, we also wish to note that the processes of recording and reporting on data at Local Authority level are inconsistent and unreliable. Consistent data is needed to ascertain progress on improvement work and to guide future priorities for improvement.

Is there anything additional that you would like to see included in the Plan?

Several priorities have already been noted above. Additionally we feel the Dependencies are vital to the success of the plan, and need focused and targeted work to ensure they are being addressed.

We also feel there is learning that can be taken from the successful production and implementation of local SDS strategies, particularly in Highland, and would like to see increased focus on local implementation in the Plan.

Additional information

Is there anything further you would like to add about the Social Care (Self-directed support) (Scotland) Act 2013?

We wish to reiterate our position, set out in our original response to the call for evidence, that the Act is a positive and pioneering piece of legislation that, when implemented as designed, can have a transformative effect on people's lives.

We also believe it is important to recognise that the introduction of the SDS Act has enshrined the right to choice around social care in law, and is designed to uphold people's human rights. The challenge now remains ensuring individuals can realise those rights.

Given opinions expressed during the session around issues with implementation of the Act, misunderstandings associated with the interpretation of the legislation, and that understanding of SDS is required within other policy areas, the Committee would also welcome further thoughts on whether you feel the Act, or other relevant legislation,

requires amendment to ensure the successful implementation of Self-directed Support?

Our priority recommendation is that Self-directed Support be included on the face of the National Care Service Bill. While assurances have been made that choice, control, flexibility and human rights will be pillars in the delivery of the National Care Service, we have yet to see the detail that describes how Self-directed Support legislation will be incorporated into the NCS and how these aims will be achieved in practice.

On a more specific issue, and as noted in our original submission to the call for evidence, we wish to highlight the discrepancy between the Adults with Incapacity (Scotland) Act and Social Care (Self-directed Support) (Scotland) Act 2013 (SDS Act) as to the age at which one becomes 'adult'.

A Scottish Government publication, [Guidance on Managing Self-Directed Support for Adults with Incapacity](#) states *"In the case of a person who lacks capacity, and thus a person who comes under the ambit of the AWI, an 'adult' is a person aged 16 or over. The SDS Act draws its definition from the Children (Scotland) Act 1995; for the purposes of the relevant sections, a person is an adult if they are age 18 years or over."*

This contradiction becomes important when a young person may lack capacity but there is no-one who has any relevant legal authority to make welfare or financial decisions on their behalf. The Guidance states *"If the supported person is now incapable and if there is no attorney or guardian, or none with a relevant power on which they can rely, then Option 3 is the only option available."* SDSS is aware of families who have been allocated an SDS budget under Option 1 for the young person they care for, who is aged 16 or 17. The Local Authority then realise that there are no family members with relevant legal authority in place, and stop the Direct Payment. This has significant implications for any Personal Assistants employed by the family, and for the young person's continuity of care.



We recommend this disparity is clarified to reduce the risk of families facing this confusing and distressing situation.