



Health, Social Care and Sport Committee Post-Legislative Scrutiny of the Social Care (Self-Directed Support) (Scotland) Act 2013 Call for Views

CCPS Response

Information about your organisation

CCPS is the voice of not-for-profit social care providers in Scotland. Our vision is for individuals and families to thrive through a rights and relationship-based care and support system.

We have over 90 provider organisations in our membership with remits spanning care and support for children, young people and families; disabled people; older people; people with learning disabilities; people in the justice system; people experiencing homelessness, and more. Our members work in every local authority area in Scotland.

As part of their provision of social care and support services, many CCPS member organisations root their provision in Self-Directed Support (SDS). SDS aims to give individuals increased choice and control over the care and support they receive including how personal budgets are allocated and spent. Our response to the Health, Social Care and Sports Committee's Post-Legislative Scrutiny of the Health and Social Care (Self-Directed Support) (Scotland) Act 2013 call for views has been shaped by conversations with our members, alongside CCPS' long-standing policy work on commissioning and procurement and associated areas, such as the National Care Service. CCPS members are also engaging with the Scottish Parliament directly in the provider engagement group set up by the Participation and Communities team.

Please tell us what you, or the person you represent, think about the implementation of self-directed support to date.

In the ten years since the passing of the Social Care (Self-Directed Support) (Scotland) Act 2013 and publication of the first national strategy for self-directed support (SDS), ongoing discussion with CCPS members providing SDS shows that there have been very mixed experiences of how local authorities / IJBs have implemented the legislation across

CCPS

Norton Park, 57 Albion Road, Edinburgh EH7 5QY
Tel: 0131 475 2676

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Scotland, with processes often being bureaucratic and not putting the needs of the supported person at the centre of delivery.

CCPS wholly supports the core principles of SDS, with the legislative emphasis of enabling informed choice and control in decision making, as well as the underpinning of rights to dignity and participation in community. These are principles at the very heart of social care. This Act had – and still has – the potential to transform the delivery of care and support. However, it has been reported to us that the implementation gap remains wide and that, in some cases, the existing passivity surrounding its effective application is significant.

Members have told us that whilst the existing guidance on SDS provision for providers, support workers, and supported individuals is in-depth and sufficient, there is a lack of accountability for local authorities to fully embed SDS into their provision of social care and support services in accordance with the 2013 legislation. Whilst there is evidence of good practice in the provision of SDS, our members find this to be inconsistent across Scotland.

For the benefits of SDS to be realised there needs to be a shift in power from local authorities to local citizens in who has a say over the type of support being provided.

Issues with Implementation of SDS

A system that doesn't enable choice and control.

CCPS members offering SDS as part of their service provision reported that the existing systems in place for delivery do not support a culture of individual choice and control, and we have been told that SDS is not always consistently offered across Scotland, which can result in a lack of parity in the options people can choose and a social care system that does not always empower individuals.

- **Members have reported to CCPS that SDS is not always offered to individuals** and providers have experienced local authorities only offering support for Option 3, despite the legislative requirements under the Act. This can mean that there is a lack of choice and control for the individual to make decisions about their own support or provider, which does not align with the fundamental principles of SDS.
- **We have heard from members that there is a power imbalance between local authorities and local citizens.** People's decisions to exercise choices based on principles of dignity and community participation are too often over-ruled by system decisions on resource availability. There are three interlinked key issues noted here:
 1. Competitive tendering processes used by local authorities, and the commissioning of frameworks based on a time and task approach to service delivery, too often reinforce a system driven by financial spending decisions as opposed to focusing on meeting needs and outcomes for individuals. In a time of increased pressure on funding, we are concerned that our members will find it ever harder to implement SDS in keeping with the legislation as

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price drives contracting decisions ever-more. There is also a risk that local authorities prioritise Option 1 solely as a cost saving measure which reduces their risk in sourcing suitable providers in a market under enormous pressure.

2. These same competitive tenders for services can still be run without involving supported people. Members providing SDS services have noted that individuals with complex needs can be moved to a new support provider with new support workers without any consultation with the person or their family – whatever informed choices they may have made about the service they want.
 3. The locus of decision making within local government too often sits with finance teams who overrule social work recommendations on care packages and individual budgets, which may well have been designed with or by supported people, in keeping with the SDS Act. We are not clear how far change management in implementation of the Act extended successfully to finance and legal teams within local government.
- Choice and control requires a diverse market of providers. This is under significant pressure as providers struggle to recruit and retain staff on uncompetitive salaries determined by public contracts, as funded by the Scottish Government. We estimate average vacancy rates in our sector to be running at 10%. Data from the 2022 Benchmarking report for the Voluntary Sector HR Network and CCPS highlighted that organisations delivering social care have been experiencing an increase in staff turnover since 2020-21, with an average of 52% of those moving jobs last year leaving the social care sector altogether. Reductions in availability of services will directly undermine SDS delivery.

Lack of accountability within SDS implementation.

CCPS members providing SDS have told us that they feel that there is a lack of accountability within the social care system to effectively implement SDS.

- **Providers have noted regularly experiencing issues with the complaints' procedures for SDS**, where supported individuals are not provided with sufficient or equal opportunity to challenge any inequities that arise in the provision of SDS by local authorities. Our members often feel that it is a lengthy process that rarely achieves solutions or focuses on outcomes for individuals.
- **Members have told us that there is too little effective leadership to support SDS implementation**, with SDS often not being championed from the top. There is too little evidence that improvement and cultural change to support implementation is being prioritised and leaders are not held to account for not overseeing full implementation of the Act. This is not just an issue within local government. We have been told that shifting the national discourse about the purpose of social care away from being solely a support to the NHS, to one of putting human-rights based care at the heart of both health *and* social care would give local decision-makers the space to create a more supportive environment that would be inclusive of the principles of the Act.

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Interdependencies that may impact future implementation.

We are delighted that the Committee is considering SDS implementation in parallel with its consideration of the National Care Service Bill. The ethos of SDS – informed decision-making, choice and control, dignity and participation in community – should remain at the heart of a reformed system but we have seen little acknowledgement of a central place for SDS in the new Bill. Indeed, given that the Scottish Government does not intend to repeal the 2014 Public Bodies Act now, we are not clear how the principles set out in the SDS Act, the Public Bodies Act and the NCS Bill support a clearly defined, single purpose to underpin social care and support. Confusion here can only impact implementation negatively and leave people confused about their rights in, and expectations of, public service. Furthermore, the SDS Act reflects the right to independent living and is, as such, an important marker towards the commitment to human rights incorporation legislation. We would like to see a future human rights bill underpin the aspirations of SDS and give additional leverage to the endeavour to deliver a rights-based care system which improves people's outcomes in life.

In summary

SDS in principle offers the choice and control that individuals receiving support need in order to meet their personal outcomes. This in turn enables supported people to actively engage and participate in their communities to their full potential, and we strongly believe that SDS has the capacity support the system to achieve this. However, this will require significant changes including:

- A challenge in local government, where SDS is not being implemented fully, to ensure decision-making on resource allocation to support individual's choice is enacted. This needs a change management process to shift culture and power and may include reviewing the support and training offered in non-social care departments, such as legal and finance, to enable full implementation.
- Stronger leadership, locally and nationally, to champion SDS and its principles as core to the social care and support system, including reflecting these in policies, other legislation and guidance, public statements, social care processes etc. This must include the NCS legislation. Clarity on how leaders are held accountable for delivery.
- Much-needed reform to embed ethical commissioning and procurement practice, ahead of any NCS, to ensure a move away from price-based competition (or to avoid reversion to it as the public purse is under ever more pressure) and the engagement of supported people in the commissioning and procurement process.
- Investment in our sector to ensure choice and control can be realised through a plurality of providers – a situation currently under threat due to insufficient central investment.
- Improving the complaints process for SDS so that individual issues can be resolved and system learning can be shared.
- Ongoing monitoring of implementation, with full engagement of those involved, to ensure that SDS is implemented in keeping with the legislation and not as a cost-saving measure during this financial crisis.

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