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Dear Colleague

General considerations around the formulation of guidance and regulation to the Social Care, (Self- Directed Support) Scotland Act

As one of Scotland's leading providers of services to children with disabilities, we warmly welcome the passage of the Social Care (Self Directed Support) Scotland Act and recognise the life changing potential it represents to some of Scotland's most vulnerable children and their families.

We are broadly content with the provisions of the Act but would ask that the Government clarify, in statutory guidance, two particular points which are currently open we believe, to an interpretation that might disadvantage those families that this Act seeks to help.

1: Clarifying the terms under which service users or their carers might chose an alternative SDS option

Part 13 of the Act, Further choice of options following a material change in circumstances, suggests (particularly in subsection 3) that the Local authority would have to agree to allow the person receiving support to choose again from the four SDS options unless they had experienced a material change in circumstances. For instance, a family or individual service user which had taken full control of their care budget might ultimately find that the management of such a responsibility was too onerous, yet this would not represent a 'material change in circumstances'. The authority might then not agree, for whatever reason, that subsection 2 (the opportunity to choose again) applied in these circumstances.

Similarly, a family or service user which had initially only taken partial control of their budget but had found that control rewarding, could not then cite their interest in taking further control as a material change in circumstances and would have to rely on the good offices of the authority to choose to take full control.

We feel this might drive down uptake of greater control as people would feel that without a material change in circumstance they would only be allowed to choose their option of SDS once, with restricted opportunity to change if they decided their chosen option was inappropriate. We seek clarification in guidance which puts service user choice at the centre of the Act and will remove some perceived barriers to uptake. We believe such a clarification would be wholly in the spirit of the bill and would ensure optimum flexibility and choice for all those families for whom SDS is intended as to provide a life enhancing flexibility in their care.

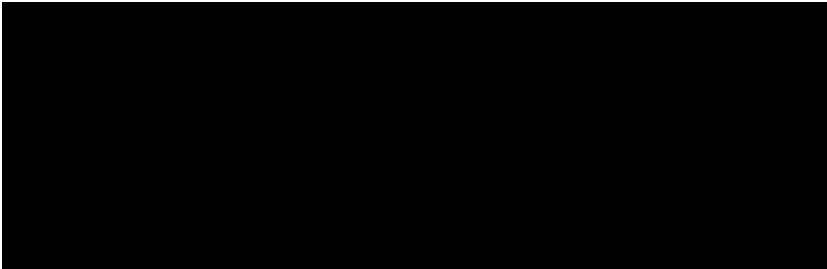
2: Ensuring those individuals contracted by Direct payment recipients for personal support or assistance are appropriately vetted for suitability through the Protection of Vulnerable Groups Scheme.

We share the concerns of Barnardos Scotland and others that there is currently no provision within the Act to ensure that individuals who may be employed to provide personal assistance or in home support to a direct payment recipient will be required to undertake a PVG scheme membership.

Having been involved with the development and implementation of the PVG Act, we would strongly suggest that such employees should be categorised as holding a regulated childcare position and checked accordingly. It may be that Government has sought to protect service users from being criminalised under the terms of the PVG act (committing the offence of employing someone who was barred from working with children or vulnerable adults) but we would suggest that the safety and welfare of those receiving care should over-ride all other considerations. As such we ask that this be reflected in guidance around the Bill.

Please don't hesitate to contact me should you have any queries regarding these points.

Kind regards



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