

# **Social Care (Self-directed Support) Bill: Final Business and Regulatory Impact Assessment (BRIA)**

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## Final Business and Regulatory Impact Assessment (BRIA)

### Title of Proposal

Social Care (Self-directed Support) (Scotland) Bill

### Purpose and intended effect

#### • Background

Self-directed support is a term that describes the ways in which individuals and families can have informed choice and control about the way that social care and support is provided to them. It includes a range of options for exercising those choices.

The Government first consulted on proposals for a Bill on self-directed support from March to June 2010, and a large majority of respondents were supportive of new legislation. A partial Regulatory Impact Assessment (RIA) was published alongside this first consultation.

<http://www.scotland.gov.uk/Publications/2010/04/sdspartialria>

Only four specific responses to that document were received. However, many respondents made comments on the main consultation document which were relevant to the questions of cost, benefit and impact.

A second consultation on a draft Bill ran from December 2010 to March 2011. Again, a large majority of respondents were supportive. An updated partial Business and Regulatory Impact Assessment (BRIA) was published alongside the consultation.

<http://www.scotland.gov.uk/Publications/2010/12/15105332/23>

Half of respondents (56 in total) either answered a specific question on the BRIA or provided views relevant to the BRIA through answers to other questions in the consultation.

This final BRIA seeks to build on both the partial RIA and the partial BRIA, taking into account the comments received.

#### • Objective

Self-directed support is about achieving better outcomes for individuals, through informed choice and increased control. The Bill aims to:

- consolidate and modernise existing legislation;
- provide a legal framework for self-directed support;
- remove some of the barriers to self-directed support for specific groups; and
- enable self-directed support for carers, in specific circumstances.

The Bill is intended to complement and support the National Strategy on Self-Directed Support in encouraging and enabling major service redesign in adult social care and support, and thus support a significant increase in the number of people who actively direct their own support. Some of the impacts outlined here relate to both Strategy and Bill, as both are part of the same drive towards change.

- **Rationale for Government intervention**

Demographic change, reductions in budgets and rising expectations from citizens present three significant challenges for Scotland's health and social care sector. In response our public services should be of the highest quality, continually improving, efficient and responsive to people's needs. The Scottish Government is addressing the challenges ahead through a range of policies including the NHS Quality Strategy, reshaping care for older people, the closer integration of health and social care and a variety of strategies on carers and young carers, people with dementia, autism, people with mental health problems and, in relation to children and young people, Getting It Right For Every Child (GIRFEC).

The Scottish Government's policy to grow and develop self-directed support for social care helps to address the third of the challenges listed above: rising expectations from users. The Christie Commission on the Future Delivery of Public Services<sup>1</sup> recognised the importance of personalisation approaches in achieving outcomes and the scope for development of self-directed support, calling for action to build capacity and raise awareness to encourage broader participation. A number of other prominent reports, including the Scottish Independent Budget Review<sup>2</sup>, NESTA's Radical Scotland<sup>3</sup> and the 2020 Public Services report<sup>4</sup>, have recognised the necessity, in the words of the Christie Commission, to ensure that services are "built around people and communities, their needs, aspirations, capacities and skills"<sup>5</sup>. The further development of self-directed support will help to respond to this call.

Self-directed support encompasses a number of different options for directing your own support. The Scottish Government recognises all choices as equally valid, but it is seeking to encourage more people to actively direct their own support – that is, take control through a direct payment or directing the available resource. There is strong evidence of the benefits of these types of self-directed support to individuals, in terms of achieving better outcomes. Research evidence shows that the majority of people using self-directed support in an active way feel more positive about the impact on the quality of their care and support<sup>6</sup>. Self-directed support ensures that citizens are empowered to be self-reliant, where possible, and promotes choice and control for all to design support tailored to their individual needs, rather than assuming a one size fits all approach.

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<sup>1</sup> Commission on the Future Delivery of Public Services (2011). *Commission on the Future Delivery of Public Services*.

<http://www.scotland.gov.uk/Publications/2011/06/27154527/0>

<sup>2</sup> Independent Budget Review (2010). *Independent Budget Review: The Report of Scotland's Independent Budget Review Panel*.

<http://www.scotland.gov.uk/About/IndependentBudgetReview/Resources/final-report/>

<sup>3</sup> NESTA (2010). *Radical Scotland – Confronting the Challenges Facing Scotland's Public Services*. London.

[http://www.nesta.org.uk/publications/reports/assets/features/radical\\_scotland](http://www.nesta.org.uk/publications/reports/assets/features/radical_scotland)

<sup>4</sup> 2020 Public Services Trust (2010). *From Social Security to Social Productivity: a vision for 2020 Public Services*. London.

<http://www.2020publicservicestrust.org/publications/>

<sup>5</sup> Commission on the Future Delivery of Public Services (2011), op.cit.

<sup>6</sup> For example, see Homer, T. & Gilder, P. (2008) *A Review of Self-Directed Support in Scotland*. Scottish Government, Social Research Report.

<http://scotland.gov.uk/Publications/2008/05/30134050/0>

Self-directed support has a role in supporting the Government's overarching aim of growing the Scottish economy. It enables people to have flexibility in their care and support and promotes confidence and wellbeing. This individually tailored, practical approach can be the gateway to equalising access to education, training, employment, economic and social participation, supporting the empowerment of individuals to gain equality of opportunity and sustain their citizenship. It also contributes to improving health and well-being and tackling health inequality. Single Outcome Agreements between the Scottish Government and local authorities provide a framework for working together, with the common ambition of improving the quality of life and opportunities in life for people across Scotland. The strong focus on outcomes associated with this Bill supports the wider government agenda of working towards better outcomes.

There has been a steady increase in use of direct payments (the most well-known mechanism of self-directed support) over the last 10 years. However, the overall numbers of people benefiting from actively directing their own support remains low. The Scottish Government wants to build on the achievements made to date, remove any unnecessary barriers put in place by existing legislation and provide a clear and consistent framework to allow for development in the future.

## **Consultation**

### **• Within Government**

Discussions with Scottish Government colleagues from relevant policy teams have been ongoing throughout the Bill's development.

Specifically, Bill team officials consulted:

- colleagues from the wider Adult Care and Support Division, particularly on carers issues;
- colleagues from Justice Directorate, the Office of the Public Guardian and the Mental Welfare Commission for Scotland on proposals around people who find it difficult or impossible to direct their own support;
- colleagues from Reshaping Care and Mental Health Division, on proposals to extend eligibility for self-directed support;
- colleagues from Children and Families Directorate, on self-directed support for children and young people;
- colleagues from Early Years and Social Services Workforce Division; on workforce issues;
- colleagues from the Integration and Service Development Division, on the relationship between self-directed support and the health and social care integration agenda;
- colleagues from the Joint Improvement Team, on issues such as outcomes focussed assessment and resource allocation.

All these colleagues have contributed to development of the Bill and continue to be involved in the policy processes around the National Strategy as the policy team seeks to understand the implications of self-directed support across their areas of responsibility.

In addition, a variety of organisations including the Office of the Public Guardian and the Care Inspectorate have contributed to the Self-Directed Support Bill Steering

Group<sup>7</sup>. This group first met in August 2010 and has a remit to inform the development of the Bill. Members of the group include supported people, care and support providers, support organisations, local authorities, the Association of Directors of Social Work and the Convention of Scottish Local Authorities (COSLA).

- **Public Consultation**

Proposals for legislative change arose from a roundtable reference group on self-directed support, convened in June 2008 by the Scottish Government. In addition, the Government held a number of locally-based consultation events and specific events for political groups during 2009, to explore the potential content of the Bill.

From March to June 2010, the Government held a first public consultation on proposals for a Bill. The consultation comprised 2 elements: the invitation for individuals and organisations to submit written responses to a discussion document and a series of consultation events held in partnership with a range of organisations. Responses were published on the Scottish Government website in August 2010:

<http://www.scotland.gov.uk/Publications/2010/08/06131128/0>

An analysis report and a Scottish Government response were published in September 2010:

<http://www.scotland.gov.uk/Publications/2010/09/16114749/0>

<http://www.scotland.gov.uk/Publications/2010/09/16114826/0>

A second public consultation on a draft Bill ran from December 2010 to March 2011. Again, the consultation included both the invitation for individuals and organisations to submit written responses to a discussion document and a series of consultation events held in partnership with a range of organisations. Responses were published on the Scottish Government website in May 2011:

<http://www.scotland.gov.uk/Publications/2011/05/19110748/0>

An analysis report was published in June 2011:

<http://www.scotland.gov.uk/Publications/2011/06/15152937/0>

A Scottish Government response was published in October 2011:

<http://www.scotland.gov.uk/Publications/2011/10/10131045/0>

In both consultations, a large majority of respondents were supportive of the Bill, although there were differences of opinion on some matters of detail. All the views expressed were analysed and considered, and have helped to inform the development of the Bill.

The Scottish Government has also convened a Bill Steering Group, as noted above.

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<sup>7</sup> Further information on this group, including membership, can be found here: <http://www.scotland.gov.uk/Topics/Health/care/sdsbill>

This is a group of key stakeholders, including COSLA, whose remit is to inform the development of the Bill. The first meeting of this group was in August 2010 and it has since met every 2-3 months. The group will continue to meet throughout the Parliamentary stages of the Bill.

- **Business**

The Bill primarily places duties on local authorities. However, a variety of businesses will also be affected by this legislation. This includes care providers, support organisations, and individuals, who have effectively become micro businesses through the choices they have made in employing others to deliver their support needs.

Many businesses, as stakeholders, have been consulted and have responded as part of the consultation process. Businesses are also represented on the Bill Steering Group through Scottish Care and the Coalition of Care and Support Providers in Scotland.

In addition, as part of the second phase of consultation a meeting was convened with representatives from 6 businesses specifically to discuss the potential impacts of this Bill in more depth and face to face. Further details on this discussion can be found in the section on Scottish Firms Impact Test.

### **Options**

The Bill can be split into the following areas, each with options which were considered:

Framework provisions. The Bill is about giving choice and control to the individual, in order to achieve better outcomes. The policy intention is that it should be available to all but imposed on no-one. To do this, the Bill introduces the principles and terminology of self-directed support into legislation and provides a clear legislative framework for self-directed support. It sets out the options for directing your own support and places firm duties on local authorities to make these available, making it clear that it is *the individual's* choice as to how much control *they* want to have. It makes it clear that, where a person has some capacity and wishes to direct their own support but finds it difficult to do so, a local authority should allow family, friends or 'circles of support' to help them. It provides a right to review, where an individual changes their mind about the choice they have made. It also ensures a service user must be told where they can get information and advice to make an informed decision, including independent services.

- Option 1 – do nothing;
- Option 2 – introduce a self-directed support framework to ensure informed choice and control; or
- Option 3 – make direct payments the default option.

Carers. The Bill provides a power to local authorities to provide support to carers following a carer's assessment, and provides that, where this is to happen, the carer must be offered the options under self-directed support.

- Option 1 – introduce a power for local authorities to offer support to carers in very specific circumstances only;
- Option 2 – introduce a power for local authorities to offer support to carers; or

- Option 3 – introduce a duty on local authorities to provide support to carers.

Duties in relation to direct payments. Existing legislation relates to direct payments rather than self-directed support (direct payments are a mechanism of self-directed support). The Bill consolidates this existing legislation, clarifying the rules for service users and providers and modernising the law. It allows Ministers to make regulations about direct payments, as they currently do.

- Option 1 – do nothing;
- Option 2 – consolidate and modernise existing legislation; or
- Option 3 – instigate a comprehensive review of all social care legislation.

Joint working with the NHS. The Bill makes it clear that, when a local authority delegates social care duties to the NHS, they also delegate the duties under this Bill.

- Option 1 – do nothing;
- Option 2 – make amendments to the Community Care and Health (Scotland) Act 2002 to ensure that, whenever local authority social care duties are delegated to the NHS, duties under this Bill are delegated too; or
- Option 3 – place duties on the NHS directly through the Bill.

- **Sectors and groups affected**

The sectors and groups that may be affected by this Bill are:

- individuals who have an assessed need for social care provided in their own home, to help them to leave their home to take up social or education opportunities, or provided in a residential setting<sup>8</sup> ;
- individuals who provide care and support;
- Scotland's 32 local authorities in their role in assessing people's social care needs, in procuring care and support and in some cases providing social care and support direct to individuals;
- providers of social care and support services, including the third sector;
- support organisations, including user-led support organisations;
- statutory bodies;
- professional bodies; and
- the NHS, on whom the impact is likely to be positive in terms of things such as hospital admissions and the effect of healthier lives.

Some of the proposals impact more on particular groups than on others. Where particular groups are affected, this is identified for each particular proposal at Annex A.

- **Benefits**

Self-directed support is about improving outcomes for individuals. Such benefits are generally assessed in qualitative terms, rather than quantitative, and thus have not been monetarised. Self-directed support enhances the empowerment of individuals to gain equality of opportunity and sustain their citizenship. It contributes to improving health and well-being and tackling health inequality, and shares the

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<sup>8</sup> It is difficult to estimate the total number of individuals who use care and support in Scotland however estimates suggest it could be up to 200,000 people.

common ambition of improving the quality of life and opportunities in life for people across Scotland. The costs discussed below should therefore be considered in the light of the qualitative benefits of self-directed support, which are further discussed in the Policy Memorandum which accompanies the Bill and is published on the Scottish Parliament website.

The benefits of each option are set out in Annex A.

- **Costs**

The cost of providing the social care itself is unlikely to be affected by the choice to direct your own support or not. That is, the effect on the cost per unit volume of social care of choosing a self-directed option should be broadly neutral. However, there may be short term implementation cost implications to local authorities arising from the transition to self-directed support and there may be some additional transactions or administrative costs to users and providers as a result of individuals choosing to arrange their own care. Whilst there is considerable qualitative evidence on this subject, there is a scarcity of quantitative evidence, particularly in relation to the macro-level. To try and address this, the Government commissioned the University of Stirling to produce a study on the costs and benefits of a shift to self-directed support in a Scottish context. However, it remains the case that many costs depend on individual choices, which are difficult to predict with any accuracy. Costs discussed are therefore best estimates, based on the available evidence. A more detailed exploration of the costs associated with the Bill is set out in the Financial Memorandum which accompanies the Bill and is published on the Scottish Parliament website.

The costs of each option are set out in Annex A.

### **Scottish Firms Impact Test**

Throughout the Bill development process, Scottish Government officials have consulted and met directly with a range of organisations, businesses and users affected by the proposals, so as to better assess the costs and/or benefits to them and their businesses.

This Bill is only relevant to Scotland and therefore impacts will be on those involved with social care and support within Scotland. The Bill places duties onto local authorities in the first instance, and the initial impact is therefore on them and on supported people. However, there are consequential effects on other providers of social care and support. The Bill requires local authorities to give supported people choice and, if they want it, control over the support they receive. By doing so, it changes the balance of the relationship between local authority, care and support provider and supported person. It is expected that the Bill will support a move away from a 'wholesale' model of providing services, with the local authority as block purchaser, towards a 'retail' model of spot purchasing and contractual relationships between the user and supplier. This will require changes of culture and practice for all parties.

The care and support provider and the support, advice and information sectors in Scotland are diverse. They range from small, not for profit organisations to large multi-nationals. Some are early adopters of self-directed support and are already

well set up to manage the shift; others are less prepared. A wide range of businesses responded to each of the consultations and shared their thoughts on the Bill and its impacts. However, a feature of these responses was a lack of quantitative evidence on the potential costs, benefits and impacts of the Bill. This has made it difficult to assess the precise costs, benefits and impacts on businesses.

During the second consultation and in order to complete this BRIA, officials held a face-to-face consultation with 6 businesses of various sizes and types and involved in various parts of the care and support sector to discuss the Bill and specifically the impacts on them.

A number of specific areas were identified by the group as areas that would impact on them, and discussed around the table. Quantitative evidence was not available to cost any of the impacts. Areas discussed were:

- Resourcing the shift. The provision of advice and support (as distinct from care and support) will become increasingly important if the self-directed support vision is to be achieved. It is likely that this cost will need to be found from within the existing budget for social care and support.
- Scale of impact. The scale of the impact on providers will depend on how many people opt for each option; the phasing of the Bill provisions; and the speed of roll out by local authorities. If there is a rush to Individual Service Funds across Scotland, this may have important impacts on providers in terms of staff contracts, procurement (including contracting with individuals), back office functions etc. There is also a larger cultural change in terms of personalising arranged services. Where providers are not used to involving service users, there will be challenges. Some of the impacts could be mitigated by phased roll out.
- Market for social care. The market is currently based on cost and volume. There is a challenge in considering how to shift this to outcomes.
- Culture in local authorities. In order to succeed, the Bill (and the Strategy) will require a comprehensive and thorough framework of training at various levels within councils and other organisations.
- Regulatory framework and care standards. How will this change the way that organisations are inspected by SCSWIS (now the Care Inspectorate)? i.e. moving away from assessing only the quality of care and support and towards inspecting the degree of choice and control available to the individual.

These areas of impact were similar to those identified by businesses in the consultation. All consultation responses are available on the Scottish Government website at <http://www.scotland.gov.uk/Publications/2011/05/19110748/0>.

- **Competition Assessment**

Self-directed support provides informed choice and control to individuals, enabling them to make decisions about the care and support they want. This includes decisions about who provides that care and support. This will increase the number of purchasers in the market for social care and should tend to lead to an increase in the number of producers. Therefore this Bill will not limit the number of suppliers or

their ability or incentives to compete, either directly or indirectly. This conclusion has been reached after consulting guidance from the Office of Fair Trading<sup>9</sup>. Answers to the 4 questions they pose are set out below.

Will the proposal directly limit the number or range of suppliers? No, the Bill has no provisions which would do this. On the contrary, it enables people to have more choice and control over the support that they receive and encourages suppliers to develop more flexible and personalised services. This presents an opportunity for new suppliers to emerge to meet developing demand for these services, alongside existing suppliers whose services will continue to be required by many people, potentially widening the market.

Will the proposal indirectly limit the number or range of suppliers? Research in England suggests that, whilst price is important, it is not the most important factor in choosing a social care service – the most important factors were found to be: staff knowing you personally and continuity of service (47%), being locally based (46%) and professional training of staff (42%). Flexibility of services came in at 26% and cheap price at 21%<sup>10</sup>. We would therefore expect that an increase in number of purchasers, due to individuals opting to direct their own support, will lead to an increase in number of suppliers of support, particularly, as there are unlikely to be significant economies of scale in this type of service activity. Existing suppliers may feel that newcomers to the market have an advantage as they will not have to reconfigure existing services. However, Scottish Government projections of demand for self-directed support suggest that, whilst this will rise, it will be a gradual process over time and many supported people will choose to stay with their existing services. The Bill does not affect the costs of entering or exiting the market. Overall, the aim of self-directed support is to encourage a wide and flexible range of support options. Individuals will have choice and control, and will be looking for support that meets their needs. Where suppliers cannot provide a service that people are willing to pay for, they are unlikely to survive. However, the overall effect will be of widening the pool and therefore it is not expected that this will indirectly limit the number or range of suppliers.

Will the proposal limit the ability of suppliers to compete? No, the Bill will not do this. Self-directed support encourages innovation and creativity in social care and support, and encourages individuals to exercise choice and control, driving competition amongst suppliers.

Will the proposal reduce suppliers' incentives to compete vigorously? No, the Bill will not do this. Where an individual is not satisfied with the support they are receiving, greater choice and control mean that they can change that support (subject to relevant notice periods). This means suppliers will have an incentive to compete vigorously in order to gain new clients and retain their existing ones.

- **Test run of business forms**

There are no new business forms planned as a result of this legislation.

<sup>9</sup> Found at <http://www.offt.gov.uk/OFTwork/policy/guidelines/#named3>

<sup>10</sup> Wood, C. (2010) *Personal Best*. London, DEMOS.

### **Legal Aid Impact Test**

The Government assesses that the changes proposed in the consultation should not result in possible expenditure from the legal aid fund. The proposals should not have any implications for individuals' right to access to justice through legal aid. They should not have implications for civil and criminal legal aid as long as there is a clear and distinct audit trail for services and as long as payment out is not less than income in. For advice and assistance, consideration will need to be given to making specific exclusions by regulation. The Bill will not introduce any new court procedure nor any new right of appeal.

### **Enforcement, sanctions and monitoring**

The Scottish Government will monitor compliance with the Bill through a number of existing or soon to be established measures. The Government is undertaking a review of the statistics collected on direct payments, with a view to amending the categories of information and to cover a wider range of self-directed support options. Implementation of the self-directed support strategy will be subject to ongoing monitoring and review through the activity of the national Self-directed Support Implementation Group. This includes Scottish Government officials, ADSW, COSLA, user-led organisations and provider-led organisations. In addition to the review of data collection, implementation will look to shift to measuring improved outcomes for people directing their support. This will be achieved through a number of routes including the Community Care Outcomes framework, the work of the Care inspectorate and specific evaluation of progress in co-production with citizens who require support.

### **Implementation and delivery plan**

Subject to completing the Parliamentary process, the Bill is expected to become an Act in late 2012 and come into force in mid-late 2013. It is expected that commencement provisions will allow for local authorities to implement the provisions of the Act over a period of 3-5 years – the exact length is still to be negotiated. Preparation for implementation has already commenced, through the work of the National Strategy Implementation Group and its subgroups, and this will continue and increase in intensity as commencement approaches.

- **Post-implementation review**

It is likely that a review of implementation will take place at the end of the implementation period: 2016 – 2018 (depending on the length of time allowed for implementation). This will allow the Government to ensure that all local authorities have implemented the provisions of the Act. The exact form of this review will be decided closer to the time, in order to ensure the most appropriate method is chosen.

### **Summary and recommendation**

Option 2 is recommended for all categories. This ensures a Bill that:

- introduces a self-directed support framework to ensure informed choice and control;
- introduces a power for local authorities to offer support to carers;
- consolidates and modernises existing legislation; and
- makes amendments to the Community Care and Health (Scotland) Act 2002 to ensure that, whenever local authority social care duties are delegated to the NHS, duties under this Bill are delegated too.

This strikes a balance between the different views of stakeholders, and allows for a modern and flexible piece of legislation which will achieve the aim of making self-directed support available to all yet imposed on no-one.

Doing nothing, or the minimal option, would not meet the needs of policy makers, practitioners or stakeholders. Despite the very positive progress made by local authorities, practitioners and users under the current legal framework the default assumption for the vast majority of clients remains that of direct delivery, with comparatively little emphasis on the individual's role to shape their own care and support plan.

Taking the most radical options would please some stakeholders but would lead to significant issues in terms of speed and scale of transition, which would lead to greater costs for all parties.

By taking the middle options, the Government can mitigate some of these costs at the same time as making necessary changes, placing direct payments in their proper context and providing a comprehensive framework of choice.

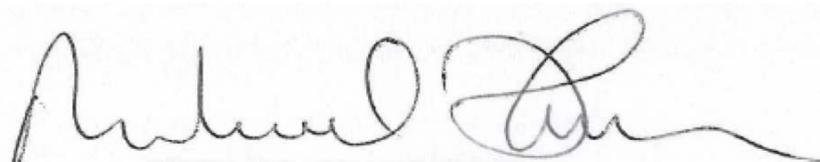
- **Summary costs and benefits table**

Costs and benefits of each option are outlined at Annex A.

## **Declaration and publication**

I have read the impact assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed:**

A handwritten signature in black ink, appearing to read 'Michael Matheson', is centered within a rectangular box.

**Date: 22 February 2012**

**Michael Matheson, Minister for Public Health**

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## Annex A – Costs and benefits of each option

### Framework provisions

Sectors and groups affected: All

	<b>Costs</b>	<b>Benefits</b>
<b>Option 1 – do nothing</b>	No financial costs. Reputational damage to the Government – stakeholders requested legislation and are supportive of it. It is also a manifesto commitment. The framework is a fundamental part of any legislation.	None – there will be no legal provision for self-directed support
<b>Option 2 – introduce self-directed support framework to ensure informed choice and control</b>	This option gives rise to a range of costs associated with transforming culture, systems and approaches to social care provision. The framework of informed choice and control comprises the main duties within the Bill and looks to facilitate a shift to self-directed support. Academic research supports the view that, in the long term, this shift is expected to be broadly cost-neutral. However, there are significant short term costs associated with the shift to self-directed support, falling within <ul style="list-style-type: none"> <li>• transformation (local authorities);</li> <li>• transformation (care and support providers);</li> <li>• workforce development (including training directly related to the Bill and wider training/awareness raising associated with self-directed support policy and practice); and</li> <li>• information and advice.</li> </ul> Of these, only workforce development costs are considered to be a direct cost arising from the provisions – all other costs are considered to arise indirectly, from the wider self-directed support strategy.	A significant body of research evidence has concluded that people using self-directed support can achieve a better quality of care and support and an improvement in the outcomes which they achieve. Informed choice and control are key to this. Benefits can be identified to: <ul style="list-style-type: none"> <li>• Individuals, who can enhance their health and wellbeing through exercising greater choice and control over their support. Self-directed support can encourage and sustain independent living (the principle that all disabled people have the same freedom, choice, dignity and control as other citizens at home, a work and in the community), foster better engagement with the community and provide a greater sense of citizenship. In addition, unpaid carers can benefit indirectly when the person they care for has greater choice and control over their support.</li> <li>• Local authorities and providers, who have</li> </ul>

	<p>Estimating short term costs, particularly those around transformation, involves uncertainty, as they are sensitive to a variety of circumstances. However, the Government has come to best estimates based on the available evidence and has identified a significant transformation budget to meet them. Over the 4 years 2011/12 – 2014/15, projected allocations are as follows:</p> <ul style="list-style-type: none"> <li>• transformation (local authorities) £24.12m;</li> <li>• transformation (care and support providers) £7.1m;</li> <li>• workforce development £3.77m; and</li> <li>• information and advice £7m.</li> </ul> <p>The pace of change is important and impacts on the costs involved. Change is already happening in the world of social care and support but it is slow. The Bill aims for significant change but must balance this with cost and effectiveness. A period of 3-5 years for implementation of the Bill is considered to strike this balance.</p> <p>Strategy workstreams will seek to address issues around workforce, communications and support services, as well as wider issues which the Bill does not address, such as eligibility criteria and outcome-based assessment.</p> <p>A more detailed breakdown of the costs of this option can be found in the Financial Memorandum which accompanies the Bill and is published on the Scottish Parliament website.</p>	<p>a close interest in delivering high-quality services which respond to and meet individual needs. Self-directed support enables people to have the support that <i>they want</i>, and <i>when</i> and <i>where</i> they want it. It focuses on maximising individual choice and control, eliminating waste and providing a system that is accessible and better suited to the needs of the whole person.</p> <ul style="list-style-type: none"> <li>• The public sector as a whole, where good quality, well targeted support can help to reduce pressure on the health sector and those parts of social care services which deal with crisis or emergency assistance. This supports Scottish Government targets for the NHS, and fits with the aims to stay healthier longer and to tackle health inequality.</li> </ul> <p>A framework which ensures informed choice and control achieves the Government aim of making self-directed support available to all yet imposed on no-one.</p>
<p><b>Option 3 – make direct payments the default option</b></p>	<p>This option would be likely to considerably increase the costs set out above, as more people would be on direct payments, the most active form of self-directed</p>	<p>This option has the potential to achieve many of the changes above, by considerably increasing the numbers of direct payments. It would be</p>

	<p>support. Direct payments require local authorities to have cash available to pay out to individuals - this option, focusing on direct payments rather than any other choice, would therefore require them to have potentially huge amounts of cash available, meaning they will need to liquefy existing assets. This would be much more difficult for local authorities to implement and would have knock-on implications for existing services and those who wish to carry on attending them. It may also be distressing for individuals who find themselves with a direct payment without really wanting one, by virtue of default or confusion, and for carers on whom the burden of managing direct payments may be placed if a supported person is not capable of doing so.</p> <p>This option therefore carries the significant risk of alienating key stakeholders, who may feel that the agenda is moving too fast. This option was consulted on but rejected by the majority of respondents in favour of a more balanced spectrum of options.</p>	<p>popular with some stakeholders who, in the light of the struggle that some people currently have to get a direct payment, see this as the only way to ensure that people can be guaranteed one if they want it.</p>
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**Carers**

Sectors and groups affected: Carers; those individuals who have carers; carers organisations; local authorities

	<b>Costs</b>	<b>Benefits</b>
<b>Option 1 – introduce a power for local authorities to offer support to carers in very specific circumstances only</b>	<p>Minimal. This would apply only in a small number of circumstances and would not assist the majority of carers.</p> <p>In addition, support to carers is already a routine and ongoing cost for local authorities, although it may not be recorded as such. Any spend therefore does not represent increased an financial requirement but a</p>	<p>Limited. This option allows the local authority to help some carers but limits their flexibility to do so and does not support the preventative agenda. This may in fact be a step back from the current situation, where local authorities already provide support to carers on a flexible basis. However, any support to carers to help them</p>

	transfer between service types.	continue in their caring role can help to avoid or minimise costs that might otherwise have to be borne by the state.
<b>Option 2 – introduce a power for local authorities to offer support to carers</b>	<p>Support to carers is already a routine and ongoing cost for local authorities, although it may not be recorded as such. Any spend therefore does not represent increased an financial requirement but a transfer between service types. The Scottish Government estimates that such transfers may equate to between £2.1 and £5.8m per annum.</p> <p>Carers centres may face increased demand for their services, if more carers look to them for advice and support. They will be able to access the Government funding allocated to advice and support (mentioned under framework provisions, option 2) to help them manage this demand.</p> <p>A more detailed breakdown of the costs of this option can be found in the Financial Memorandum which accompanies the Bill and is published on the Scottish Parliament website.</p>	<p>This option supports carers to help them continue in their caring role, which can help to avoid or minimise costs that might otherwise have to be borne by the state.</p> <p>This option provides a legal basis for what local authorities are already doing, whilst giving them flexibility and discretion to determine the best use of scarce resources. It allows them to help prevent or delay deterioration in a carer’s ability to cope, thus preventing or delaying more expensive interventions.</p>
<b>Option 3 – introduce a duty on local authorities to provide support to carers</b>	<p>This is a significant extension to existing practice, which may place high levels of demand on local authorities to fund support, which they may not be able to meet. A duty would create an entitlement to support which does not currently exist and may lead to a significant ‘woodwork effect’ as carers who do not currently receive any support come forward once there is a formal entitlement. This is likely to be on a lesser scale to Free Personal Care, but may still be significant – approximately 1 in 8 of the Scottish population is a carer and therefore potentially eligible.</p> <p>Local authorities would incur costs in coping with</p>	<p>This option recognises the importance of carers and the value of their role.</p> <p>It supports carers to help them continue in their caring role, which can help to avoid or minimise costs that might otherwise have to be borne by the state. It allows them to help prevent or delay deterioration in a carer’s ability to cope, thus preventing or delaying more expensive interventions.</p>

	<p>increased demand. They would also require eligibility criteria and guidance which in practice may reduce access to support to all but the most in need – this would reduce the ability of local authorities to support low-level preventative interventions.</p> <p>Increased costs would also be likely to arise through increased take-up of carers assessments. It is difficult to judge how many more might be required, but as an assessment is the route to support, it is reasonable to suggest that this might be significant.</p>	
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**Duties in relation to direct payments**

Sectors and groups affected: All

	<b>Costs</b>	<b>Benefits</b>
<b>Option 1 – do nothing</b>	<p>No financial costs.</p> <p>Reputational damage to the Government – stakeholders requested legislation and are supportive of it. It is also a manifesto commitment. Not consolidating and modernising the duties in relation to direct payments in the Bill would fail to address the issue of duties being spread across different pieces of legislation – in fact it would make it worse.</p>	<p>None – duties in relation to direct payments would remain unchanged, unclear in places and spread across different pieces of legislation.</p>
<b>Option 2 – consolidate and modernise existing legislation</b>	<p>Minimal. For the most part, the consolidation and modernisation of existing legislation has no cost, except in terms of staff resource, and this would be restricted to legislation relating to direct payments. Contained within this section of the Bill are regulation making powers. The extent of any regulations to be laid has yet to be determined but may include:</p> <ul style="list-style-type: none"> <li>• The ability to employ a close relative in certain circumstances. This simply replaces costs that</li> </ul>	<p>Modernising and consolidating legislation makes it more user-friendly for supported people and their carers. Much of the existing law on direct payments is over 15 years old. Bringing it together in one new Act and updating it provides clarity to all who need to refer to it.</p>

	<p>would otherwise be incurred through the provision of services.</p> <ul style="list-style-type: none"> <li>• The ability to choose whether to receive a direct payment gross or net. Payments on a gross basis incur administrative costs to local authorities. However, for most people net payments are more convenient and it is not anticipated that significant numbers will choose to take a payment gross. Therefore, the cost impact is assessed as minimal.</li> <li>• Direct payments for residential accommodation. This may have some effect on the National Care Home Contract. However, any regulations on this matter would need to be consulted on and known far enough in advance for negotiations to take them into account.</li> </ul> <p>A more detailed breakdown of this option can be found in the Financial Memorandum which accompanies the Bill and is published on the Scottish Parliament website.</p>	
<p><b>Option 3 – instigate a comprehensive review of all social care legislation</b></p>	<p>This would be an extremely lengthy and complex process, and therefore potentially very expensive for the Scottish Government, local authorities and the wider support sector in terms of staff resource. Social care legislation is wide-ranging and wide-reaching and the results of such a review cannot be predicted, meaning that potential costs are unknown.</p>	<p>This would allow policy-makers, professionals and supported people to ensure that all social care legislation is fit for purpose and to introduce modern social work ideas and terminology.</p>

**Joint working with the NHS**

Sectors and groups affected: Supported people with both health and social care needs; their carers; NHS staff to whom local authority functions are delegated.

	<b>Costs</b>	<b>Benefits</b>
<b>Option 1 – do nothing</b>	No financial costs. Reputational damage to the Government – stakeholders requested legislation and are supportive of it. It is also a manifesto commitment. This area was a key concern of stakeholders, who wanted to see some action on it.	None – retains the status quo for now, which may please some and will save on training and awareness raising costs. However, health and social care integration is a key manifesto commitment for the Government and doing nothing would be ignoring the inevitable, as well as failing to take the opportunity to ensure that self-directed support is embedded in any future changes..
<b>Option 2 – make amendments to the Community Care and Health (Scotland) Act 2002 to ensure that, whenever local authority social care duties are delegated to the NHS, duties under this Bill are delegated too</b>	Costs are associated with the training and awareness raising implications amongst NHS staff, particularly those who are most likely to undertake social care assessments, or joint assessments, under the delegated power. Unlike local authority staff, no prior knowledge of self-directed support can be assumed and therefore awareness raising will need to address their specific needs and take account of the cultural shift requires. Development of relevant modules is already underway. Costs for delivery of the training are estimated at £0.73m. A more detailed breakdown of the costs of this option can be found in the Financial Memorandum which accompanies the Bill and is published on the Scottish Parliament website.	This ensures that self-directed support is part of social care assessments, whoever carries them out. It is also compatible with the future intentions of the health and social care integration agenda and the forthcoming Bill – this is an amendment that should not need to be changed in that Bill. Although it is not as clear a statement of intent as option 3, statutory guidance accompanying the Bill would be able to expand on the intentions behind this provision.
<b>Option 3 – place a duty on the NHS and local authorities to work together on the face of the Bill</b>	Costs would be associated with training and awareness raising amongst NHS staff, as above, but it would also require additional awareness raising for local authority staff. The forthcoming Health and Social Care Integration Bill, whose content is currently being discussed, will	This would be a very clear message to stakeholders that the Government is serious about encouraging joint working between the NHS and local authorities.

	address the joint working issue and therefore a provision like this risks becoming obsolete very quickly if the new Bill makes different provision.	
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