

Social Care (Self-Directed Support) (Scotland) Bill
Scottish Social Services Council

The Scottish Social Services Council (SSSC) was established in October 2001 by the Regulation of Care (Scotland) Act. We are responsible for registering people who work in social services and regulating their education and training.

Our work will increase the protection of people who use services by ensuring that the workforce is properly trained, appropriately qualified and effectively regulated. Our aims are to protect people who use services, to raise standards of practice to strengthen and support the professionalism of the workforce, and to improve the outcomes and experience of people who use social services.

Our vision is that our work means the people of Scotland can count on social services being provided by a trusted, skilled and confident workforce. And our purpose is to raise standards and protect the public through regulation, innovation and continuous improvement in workforce planning and development for the social service workforce.

The SSSC welcomes the opportunity to provide evidence to Committee on this important piece of legislation. The SSSC supports the Bill and its underlying philosophy of personal choice and empowerment, and we agree that people should be able to exercise their own personal choice when employing personal assistants, free from unnecessary limitation.

The principal issue on which we have a view is one on which the Bill is silent, but which is likely to be of interest to Committee Members and others. That is the question of regulation. We understand the Bill is silent on this issue because it is not within scope; the relevant legislation being the Regulation of Care Act.

At present there is no regulation of people working as personal assistants, nor of the employment agencies that increasingly provide them. On the latter, the SSSC is clear that it is unacceptable that such employment agencies are not regarded as care services and therefore do not fall within the responsibilities of the Care Inspectorate. Employment agencies come under generic UK regulation from the Department of Business, Innovation and Skills. Its primary purpose is to protect vulnerable workers, having been established in response to the tragedy of the Morecambe Bay cockle pickers. That regulation does not concern itself with the people with whom those personal assistants work. Employment agencies are increasingly used by local authorities and other providers to source temporary social service workers, including social workers, and are increasingly being used to source personal assistants.

People accessing personal assistants from agencies should be fully informed of the status of agencies and the protections they do, or don't, have. If agencies remain unregulated, that leaves a loophole which allows people or organisations to by-pass regulation. It is the SSSC's view that those agencies should be regulated as care services.

Our first recommendation is therefore that agencies providing personal assistants, and indeed other social service workers should be regarded as care services and required to register with the Care Inspectorate.

The issue of individual personal assistants is more complex, and is one which has vexed officers and Members of the SSSC more than any other over the last 10 years. As an organisation, supported by Scottish Government, we are committed to providing protection to the public through registration, and ensuring high quality care through qualifications. Research clearly demonstrates that skilled, confident and qualified workers offer the safest, best quality care, with the best outcomes for people who use services. We believe that neither the people who receive social services through self-directed support, nor the people who deliver it, should be denied protection or access to core skills.

We recognise that personal choice to employ whoever you want to care for you, including members of your own family or friends, is fundamental to the philosophy of self-directed support and we whole-heartedly support that. We also recognise that people requiring care can be very vulnerable and need to be equipped to make informed choices. It is important to remember that while many people who will employ personal assistants, particularly those with physical disabilities, will be more than capable of making informed choices, others will not.

In most important aspects of life, our choices are limited by regulation; we don't have the choice to be treated by unqualified doctors or taught by unqualified teachers. It is counter-intuitive to argue that public money should be spent on a service which has no accountability to the public. Why would that be different in care?

It is important that any form of regulation is appropriate and proportionate, and we do not propose a full registration model for this group. In our view, the local authority providing the funding should ensure that a qualified social worker assesses the service user (and their carers if appropriate) to establish their capacity as a potential employer, and their level of need. We welcome the fact that the Bill sets out a role for local authorities in ensuring people are properly assessed and equipped to make informed choices, including the option of regulated care.

We recommend that all personal assistants should be made aware of the Code of Practice for Social Service Workers and encouraged to adhere to them, and all employers of personal assistants should be made aware of the Code of Practice of Social Service Employers and encouraged to adhere to them.

We also recommend that minimum induction training is made available to personal assistants, and their employers, covering things like rights-based care as has been produced by the Scottish Human Rights Commissioner in the *Care About Rights* programme, and professional boundaries guidance.

We appreciate that the Committee takes very seriously the question of protection of the vulnerable and their right to high quality services and finds a model that can deliver that whilst staying true to the right of individuals to make choices about their own lives. We recommend that complex care and care for particularly vulnerable service users is provided by workers regulated by the SSSC. Those terms would need careful and consistent definition so as not to be used to limit personal choice unfairly.

The challenge of being an employer should not be under-estimated. The Scottish Government should ensure there is a communications policy accompanying the

Bill when it comes into force that addresses what service users need to do when employing personal assistants, and what the personal assistants need to do in fulfilling their role. The SSSC will have a valuable contribution to make to that based on our extensive experience in the sector.

In our view this is a very complicated issue that cannot be decided by Government, regulators or lobbying groups alone. There should be a public debate on how much risk we are prepared to tolerate; that may well be very different from person to person, community to community. It is inevitable that something will go wrong, as it does in any care context, and under the current system it is clear that accountability ultimately rests with the providers and with regulators. Under an unregulated system of self-directed support, that accountability rests with individuals. That may be the right option, but it needs to be considered very carefully in an informed way. We understand that Scottish Government is satisfied that the extensive consultation which took place in advance of this Bill being published sufficiently aired that debate and that the public are as conversant as they can be with the issues.

In particular, like our colleagues in Scottish Government, we are committed to ensuring that the views of service users and carers are central to this Bill and its successful implementation.

As Committee will be aware, personal assistants form part of the footprint of the Sector Skills Council, Skills for Care and Development and the SSSC is the Scottish arm of that partnership. We are therefore looking carefully, with our partners in England, Wales and Northern Ireland, at the development needs of this part of social service workforce and also workforce planning for the future. Personal assistants can be in an isolated and unsupported role; they have their own development needs. The SSSC is already engaged with officials in relation to addressing the development needs of personal assistants, and we would be happy to contribute to work on the core skills and attributes they require. We are also working on the skills and qualities required by the existing workforce to address the new ways of working and thinking that will be required by an increasingly personalised care agenda, to the benefit of service users and carers.

We recommend that the Scottish Government accesses the resource available through our sector skills council to explore workforce development and planning for personal assistants.

Conclusion

The question of whether or not personal assistants should be regulated, and if so what the model should be, requires proper debate. The SSSC welcomes the opportunity to participate in that debate.

Scottish Social Services Council
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