

FALKIRK COUNCIL

Subject: RESPONSE TO SCOTTISH GOVERNMENT PROPOSED SELF DIRECTED SUPPORT (SCOTLAND) BILL JUNE 2010
Meeting: FALKIRK COUNCIL
Date: 23 JUNE 2010
Author: ACTING DIRECTOR OF SOCIAL WORK SERVICES

1 Introduction

- 1.0 The purpose of this report is to inform members of the Scottish Government's Consultation on the Proposals for a Self Directed Support (Scotland) Bill (Appendix 1) and to seek agreement on the response (Appendix 2). The consultation period runs until 23rd June 2010.

2.0 Background

- 2.1 The proposals for a Self Directed Support (Scotland) Bill follow on from the recent consultation on a National Strategy for Self Directed Support, which was developed with the support of a National Reference Group (including representatives from COSLA and ADSW), and through extensive discussion with other stakeholders. This was discussed by the Housing and Social Care Committee on 25th May 2010. Recommendation 22 of the Strategy Consultation stated that the Scottish Government would consult on proposals for the Self Directed Support (Scotland) Bill by spring 2010.

3.0 The Bill Proposal

- 3.1 The proposals for legislation within the consultation document are summarised as follows:

- The government proposes that a new Bill on self-directed support consolidates and updates existing legislation on direct payments.
- The government proposes that the new legislation introduces the term self-directed support into statute, defines this term and makes it clear that self-directed support includes the choice of direct payments.
- The new Bill on SDS should provide a legislative framework that would allow the Government to consider extending direct payments in the future.
- The new Bill on SDS may require for the offer of self-directed support to be provided on an opt-out as opposed to an opt-in basis.
- The government is considering expanding the categories of persons who can receive direct payments on behalf of an adult with incapacity.

This would allow other categories of persons to receive such payments, so long as a guardianship order, or power of attorney, with relevant powers was

not already in place. (The proposals suggest using Access to Funds to achieve this).

- The new Bill on SDS may remove the restriction to direct payments and other forms of self-directed support for people with mental health problems who are subject to certain compulsory treatment orders.
- The government is considering options to amend or remove the restriction on the use of direct payments for the purchase of residential care.
- A new Bill on SDS may remove the restriction placed on local authorities to provide direct payments or other forms of self-directed support to unpaid carers, where this supports carers to continue to provide care.

4.0 Consultation Response

- 4.1 A series of workshops for staff were held led by the Social Work Policy Development Officer (Short Breaks/Independent Living) who is also a member of the national reference group. The views from these have formed the draft response which is attached as Appendix 2.
- 4.2 There are a number of detailed recommendations contained within this proposed Bill. Although there are many which are positive, there are several which require further consideration and clarity. Particularly the operation of the opt out arrangement as this could have a negative impact in relation to timescales for provision of service arrangements and resulting operational and financial cost implications for local authorities.

5.0 Next Steps

- 5.1 After the closing date (23rd June 2010) all responses will be analysed by the Scottish Government and considered with other available evidence to reach a decision on the Self Directed Support (Scotland) Bill. The Scottish Government aims to issue a report on this shortly after the end of the consultation.

6.0 RECOMMENDATIONS

Council is asked to:

- 6.1 note the consultation document on the Proposed Self Directed Support (Scotland) Bill and endorse the content of the officer response as an accurate reflection of Falkirk Council's views on the proposed Bill.**

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Acting Director of Social Work Services/Chief Social Work Officer

Date: 10th June 2010

Contact: Margaret Anderson, Acting Director of Social Work Services