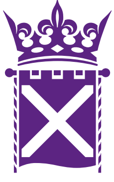

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Health, Social Care and Sport Committee

Post-legislative scrutiny of the Social Care (Self-directed Support) (Scotland) Act 2013: Phase 2

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Contents

Membership changes 1
Summary of recommendations 2
Introduction 11
Relevant policy and legislation 13
Social Care (Self-directed Support) (Scotland) Act 2013 13
Public Bodies (Joint Working) (Scotland) Act 2014 14
National Care Service (Scotland) Bill 15
Guidance, data and improvement work 17
Guidance 17
Standards 17
Data and reviews 18
Data 18
Implementation study 18
My Support, My Choice: User Experiences of Self-directed Support in Scotland 18
Other reviews and data sources 19
Improvement plan 19
The National SDS Collaboration 19
Health, Social Care and Sport Committee Scrutiny 21
Phase 1 21
Private briefing to the Committee 22
Call for views 22
Engagement workstreams 23
Information from the Scottish Government 24
Conclusions from Phase 1 24
Phase 2 25
The sector and its staff 25
Sustainability of the sector 26
Pressures on social care organisations and the available marketplace of providers 27
Social workers 29
Consistency 38
National consistency 39
Local authority implementation 50
Commissioning and tendering 59
Monitoring, accountability and transparency 63

Data collection 66
Alignment of legislation and policy 77
Amendments to legislation 81
Conclusions 84
Annexe A: Evidence and information gathered 86
Annexe B: Extracts from Committee minutes 87
Bibliography 89

Health, Social Care and Sport Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Health and Social Care.

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Membership changes

1. The following changes to Committee membership occurred during the Committee's scrutiny:

   - On 31 October 2023, Ivan McKee MSP replaced Stephanie Callaghan MSP.
   - On 9 November 2023, Ruth Maguire MSP replaced Evelyn Tweed MSP.
   - On 18 June 2024, Joe Fitzpatrick MSP replaced Ivan McKee MSP.

Summary of recommendations

The sector and its staff

Pressures on social care organisations and the available marketplace of providers

2. The Committee has heard that an unsustainable social care sector with restrictions on available providers, how services are commissioned and procured, and the financial systems and models of care currently in place is hampering the effective implementation of SDS.

3. The Committee is of the view that in order to deliver SDS in accordance with the Act, there needs to be a range of social care providers to deliver that care across all regions, in accordance with how people choose to receive their support.

4. The Committee has heard good practice examples of certain local authority areas offering more choice using a range of different collaborative initiatives – namely through locality planning, community planning structures, and developing consortiums of care. The Committee calls on local authorities and COSLA to:

   - identify areas where there is currently a lack of appropriate resources to offer people the choices they are entitled to under the legislation, and target support in those areas towards developing more collaborative initiatives to address this issue.

   - embed or mainstream good practice across all local authorities to help overcome the current lack of choice and shortage of providers that exist within certain areas.

   The Committee further calls on the Scottish Government to set out how it will ensure national oversight of this process.

Social workers: Education and training for social work staff

5. The Committee has heard evidence that a lack of knowledge and understanding of the principles of the Act, among key staff – both social work staff and others involved in decision making – is having a substantial impact on how social care is organised and delivered and is contributing to the poor implementation of SDS.

6. The Committee understands that social work students are expected to achieve a practical understanding of SDS as part of placement-based learning. However, the Committee has been concerned by evidence that, when it is supposed to be the mechanism for delivery of all social care in Scotland, SDS does not consistently form part of the taught curriculum for social work students in Scottish educational establishments. The Committee calls on the Scottish Government to establish the extent to which SDS is taught within Scottish educational establishments and, if there are gaps, what plans it has to address these.

7. The Committee has heard evidence that significant learning takes place during

the post-qualification period for newly qualified social workers (NQSWs). The Committee recommends that all NQSWs are routinely given access to continued support and development as part of the post-qualification period that specifically focuses on delivering the principles of SDS using relationship-based practice. The Committee calls on the Scottish Government and the Scottish Social Services Council to ensure this is an integral part of the NQSW Supported Year in Scotland.

8. The Committee has further heard that many local authorities are applying a care-management model approach to social work, whereby social workers act as brokers arranging services based on defined procedures. Where such an approach is utilised, it is in place of engaging with individuals to build relationships and deliver flexible needs-based support focused on building resilience and prevention in communities. In order to fully realise the principles of the Act, it is clear that a more relationship-based approach to social work practice is required. The Committee calls on local authorities to set out what actions they will take to facilitate a shift in social work practice in their areas towards a relationship-based model. The Committee calls on the Scottish Government to set out how it will ensure national oversight of this process.

9. The Committee further asks the Scottish Government to set out to what extent, and how, it intends to exercise national oversight to ensure social workers are permitted the necessary time to be able to undertake assessments using relationship-based practice as a mechanism for ensuring the principles of the Act are consistently delivered across the country.

10. In order to establish more collaborative systems and processes, the Committee also calls on COSLA and other relevant stakeholders to ensure that all staff in local authorities who are involved in SDS decision-making are required to undertake appropriate training on the legislation and the principles that underpin it. In addition to social work staff, this should include finance and administration staff, managers, those involved in commissioning and procurement, and councillors.

Social workers: Fair work for social work staff

11. During its scrutiny, the Committee has heard evidence that social workers face a number of constraints which prevent them from taking a relationship-based approach to their work in a way that would enable them to fully implement the principles of SDS. The Committee has also heard evidence that the consistently high level of complex and crisis work social workers are currently being required to undertake is leading to stress and burn-out and causing many to leave the profession, contributing to a vicious cycle which means there is less capacity in the system to support those remaining.

12. The Committee calls on the Scottish Government to provide an update on its plans to apply fair work practices to the social work profession, alongside detail of specific mechanisms it has introduced or plans to introduce to listen to and support social work staff. Given the significant challenges around retention of

social workers, the Committee believes the Scottish Government should consider the application of fair work practices to social work as a high priority and calls on the Scottish Government to set out a plan and associated timetable for achieving this.

13. The Committee believes that commissioning and strategic planning processes need to ensure that social workers are consistently able to arrange care in accordance with people's choices under the Act. The Committee further calls on the Scottish Government to set out more broadly what it plans to do to improve commissioning, funding and fair work for social work staff to ensure this can happen.

Consistency

National Consistency: Information, advice and support

14. During this scrutiny, the Committee has heard that there is a lack of national consistency in relation to information, advice and support to ensure fair and equitable access to social care through SDS. The Committee recommends that the Scottish Government issues further guidance to all HSCPs to ensure there is a significantly improved level of consistency in communication of information, definitions and use of language to describe SDS.

15. The Committee's scrutiny has revealed a lack of public awareness about what social care, and SDS, is and how it works. The Committee agrees with stakeholders that there should be an online one-stop resource for people who may need to access support with SDS and calls on the Scottish Government to establish such a service, accompanied by regular campaigns to promote it. This would be a huge benefit to people who require social care support and want to understand more about SDS.

National Consistency: Funding

16. The Scottish Government has identified a number of key priorities and activities, as part of its Improvement Plan, which it states will move "social care and support further towards delivering fully on the SDS principles". However, the Committee has heard concerning evidence that the Improvement Plan is currently significantly underfunded and, if unaddressed, believes this will continue to hinder the full implementation of SDS.

17. The Committee has also heard significant evidence on wider funding constraints and considerations and underfunding in the social care system, and recognises the Minister's commitment to increase social care funding. However, it believes that until additional resourcing of the Improvement Plan is secured, the ambition to fully implement SDS, as the delivery mechanism for all social care in Scotland, will remain nothing more than an aspiration.

18. From the evidence it has heard, the Committee also has concerns that the allocation of funding within the Improvement Plan may not be optimal to achieve full implementation of SDS. While independent advocacy and the provision of information are important, this appears to be the primary focus of funding, whereas, for SDS to work as intended by the legislation, greater priority should be accorded to improving the underlying fundamentals (improving the sector, addressing issues around workforce recruitment and retention, fair work and staff training, enhancing consistency in various areas, and reviewing and improving local authority processes and implementation). With this in mind, the Committee calls on the Scottish Government to ensure resourcing of the relevant activities in the Improvement Plan is suitably prioritised.

National Consistency: Eligibility criteria and the Options

19. The Committee has heard extensive evidence that changing eligibility criteria as a result of budgetary constraints and funding restrictions is preventing HSCPs from effectively meeting people’s care and support needs under SDS.

20. The Committee has concluded that the current eligibility criteria are not working and, as currently applied, contradict the aims and principles of SDS. To address this issue, the Committee believes that the model of social work needs to change from the current model of care management to a model of relationship-based practice and that individualised, means-tested assessments that use eligibility criteria need to be replaced with community-based services that are properly responsive to individuals' choices and preferences.

21. The Committee recognises that the Scottish Government is working with COSLA to review eligibility criteria as part of the National Care Service programme of reforms. The Committee asks the Scottish Government to provide an update on this work, including setting out the detail of discussions and related decision-making, alongside timescales for action.

Local authority implementation: Processes - assessment

22. The Committee has heard evidence of significant variability in implementation of SDS between different HSCPs. While some areas have been developing SDS policies and procedures based on the original SDS strategy that pre-dates the Act, others do not have such policies and procedures in place over a decade after the legislation was introduced. This means that the experience of accessing social care can be very uneven. Although recognising that a move to a different area presents an opportunity to reassess someone's needs and outcomes in a new context and environment, the Committee has concluded that the process of transition needs to be transparent, timely and fully supported by both authorities to ensure that a person's autonomy is preserved and respected in any changes to support. The Committee therefore calls on COSLA and Health and Social Care Scotland to set out what it is doing, or plans to do in future, to minimise such variability and to smooth transitions for those individuals moving from one HSCP

area to another.

23. The Committee is equally concerned by stakeholder reports that some local authority processes are seen to work against the principles of SDS. As part of ongoing work on the improvement plan, the Committee therefore calls on COSLA and Health and Social Care Scotland, as a matter of priority, to undertake an evaluation of all HSCPs to ensure local processes are universally consistent with SDS principles.

24. Following this evaluation, the Committee further calls on COSLA and Health and Social Care Scotland to systematically identify areas of best practice and ensure there are opportunities to share these across all HSCPs (including related opportunities for additional training, improved processes and mentoring). The Committee calls on the Scottish Government to set out how it will ensure national oversight of this process.

Local authority implementation: Processes - complaints

25. The Committee has heard that people accessing social care feel they are unable to challenge decisions about their social care provision, especially where the care they receive may not correspond to what was discussed as part of the assessment process.

26. The Committee is of the view that, to ensure proper implementation of SDS in accordance with its principles, there needs to be a formal complaints process for social care that is consistent across all HSCPs. This should form part of an iterative process, where decisions around complaints then feed back into the care review system, following a continuous improvement model.

27. In this context, the Committee refers the Scottish Government to the recommendations it has made on the subject of complaints as part of its Stage 1 report on the National Care Service (Scotland) Bill.

28. The Committee further concludes that, to be effective, any such complaints process needs to be clear, transparent and properly publicised so that individuals are able to make effective use of it and requisite lessons are learned to ensure progressively improved implementation of SDS over the long term.

Local authority implementation: Processes - finance and budgets

29. The Committee's scrutiny has highlighted a lack of transparency and accountability around funding decisions related to SDS. The Committee believes that HSCPs should be funded to deliver social care in line with the Act, and the Scottish Government has a responsibility to ensure that HSCPs allocate appropriate budget in order to deliver on social care commitments. The Committee asks the Scottish Government to set out how it intends to address these issues to improve the delivery of SDS.

30. The Committee is aware of stakeholder concerns that staff involved in financial and budgetary decisions on SDS may not be fully aware of their obligations under the Act. The Committee calls on COSLA to ensure there is better collaboration between finance and accounting staff and those responsible for establishing social care and support needs, across all local authorities. This will help to ensure resulting support better reflects people's outcomes and will help enable local authorities to fully realise the principles of SDS.

31. The Committee has heard evidence that in order for SDS to be properly implemented in accordance with the legislation and the underlying principles, there needs to be greater flexibility in funding and budgetary arrangements. The Committee calls on the Scottish Government to explore how greater flexibility might be promoted, for example, by allowing for greater pooling or annualisation of budgets[i].

Local authority implementation: Leadership and culture

32. During its scrutiny, the Committee has heard extensive evidence that, although the legislation has been in force for more than a decade, the existing culture, and by extension leadership, within HSCPs remains a barrier to effective implementation.

33. The Committee has concluded that the current underlying system of social care delivery based on individual assessment, eligibility and transactional care contracts is incompatible with the principles of SDS and that this makes it difficult, if not impossible, for leadership at a local level to cultivate the appropriate ethos and culture for the SDS principles to become a reality.

34. The Committee therefore calls on:

- COSLA and other national partners to explore how that underlying system of social care delivery needs to change in each local authority area in order to become compatible with SDS principles;
- each local authority to evaluate what actions are needed within their area to shift the culture around SDS to ensure the principles of the Act are fully realised;
- the Scottish Government to set out what it will do, as part of the proposed National Care Service, to embark on a programme of 'culture change' that enables local authorities to deliver social care consistently in accordance with SDS legislation and principles.

Commissioning and tendering

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i An example of a change to an annualised budget could be where, instead of an individual's budgets being fixed at purchasing a set number of support hours a week, it is annualised to a total sum to allow for much greater flexibility on how that budget is used, in accordance with someone's outcomes.

35. The Committee has heard worrying evidence of a gap of communication and understanding between strategic commissioners and the social work services tasked with arranging social care. The Committee would expect it to be the norm that strategic commissioners within authorities were fully aware of available services and support needs in their local area, and were capable, on that basis, of identifying various ways to commission care more creatively. This does not appear to be the case in all areas, from the evidence the Committee has heard during this scrutiny.

36. The Committee would expect that commissioning and procurement of social care would enable people to meaningfully choose an Option under the legislation and that HSCPs would ensure their care is organised and delivered in the way that they choose. However, contrary to this expectation, the Committee has also heard that current approaches to commissioning can restrict people’s choices, meaning that some Options under the SDS legislation are effectively unavailable to some people seeking care and support.

37. The Committee calls on each local authority to undertake a review of commissioning and tendering processes in relation to social care in their area and, informed by its findings, to develop an action plan with the aim of enhancing flexibility and removing unnecessary restrictions on choice for individuals and thereby improving the implementation of SDS. The Committee further calls on the Scottish Government to set out how it will ensure national oversight of this process.

38. The Committee is convinced that poor commissioning and procurement practices have resulted in transactional commissioning and time and task approaches to care delivery. The Committee has heard evidence that establishing collaborative commissioning models and developing a marketplace of providers could lead to substantial improvements in implementation of the Act. The Committee calls on COSLA and Health and Social Care Scotland to ensure examples of best practice in these specific areas are disseminated across all HSCPs and local authorities.

39. The Committee has concluded from its scrutiny that, in order to be successful, any reforms to commissioning and procurement brought about by the proposed National Care Service need to have SDS principles at their core. The Committee therefore calls on the Scottish Government to set out precisely how it will ensure this is the case.

Monitoring, accountability and transparency

Data collection: Priorities for monitoring and evaluation

40. The Committee is concerned that there was no baseline or benchmarking undertaken, and no clear plan produced, on how to monitor or evaluate SDS when the legislation originally came into force. The Committee is further concerned that despite numerous calls to address the lack of monitoring and evaluation data around SDS, including through Scottish Government commissioned research, very little progress has been made over the last decade.

41. The Committee notes the commitment to produce a monitoring and evaluation plan as part of the current SDS improvement plan but regrets that this is still not forthcoming despite previous commitments that it would be "developed later in 2023". The Committee is firmly of the view that, to achieve meaningful improvement in the implementation of SDS going forward, there is a requirement to develop a comprehensive monitoring and evaluation plan for SDS as a whole. The Committee calls on the Scottish Government to develop and roll out such a plan as a matter of urgency.

42. As an integral part of such a comprehensive monitoring and evaluation plan for SDS, the Committee suggests the Scottish Government should include research into:

- the levels of unmet need in relation to social care across the country, including as this relates to those not receiving care and support as well as those who currently do.
- whether people's outcomes are well defined, whether they have been achieved and the challenges they have faced in accessing social care and support.
- Social worker experiences, including any specific challenges in assessing SDS and organising delivery of social care.
- Local authority practices and processes surrounding SDS.

Data collection: Learning, improvement and good practice

43. The Committee has heard encouraging evidence of good practice in certain areas to improve the implementation of SDS on the ground. However, it is concerned that participation in improvement work may be self-selecting, meaning that in those areas where improved implementation of SDS is most badly needed, there is little or no learning or improvement work taking place.

44. The Committee therefore calls on the Scottish Government to develop a proactive plan to identify areas of particularly poor performance and to support these areas to develop their own improvement plans, underpinned by good practice in better performing areas.

Data collection: Oversight and accountability

45. The Committee firmly believes that, to ensure proper implementation of SDS going forward, there is an urgent need to establish a process of national oversight and clear lines of accountability as part of a significantly improved approach to monitoring and evaluation of SDS. The Committee calls on the Scottish Government to set out how it will achieve this.

Alignment of policy and legislation

46. The Committee recognises that the legislative and policy landscape has changed significantly in relation to social care over the last decade. In particular, the Committee has heard stakeholder concerns that the process of health and social care integration has diverted attention and resources away from successful implementation of SDS. The Committee has also heard stakeholder concerns that the creation of a National Care Service will similarly divert resources away from front-line social care delivery and the implementation of SDS. The Committee calls on the Scottish Government to ensure that the principles of SDS are placed at the heart of all social care delivery in Scotland, whether that is through the National Care Service or other ongoing integration.

47. The Committee also recognises that understanding of SDS is not well established across all relevant policy areas. The Committee is of the view that the principles of SDS need to be better aligned with the mechanisms and duties that local authorities have to work with, or alternatively, as is suggested by this post-legislative scrutiny, those mechanisms (commissioning, procurement, eligibility criteria), and duties (means testing and assessments) must change to enable better alignment of principles and practice. The Committee calls on the Scottish Government to set out how it will ensure SDS is properly integrated and understood within other related policy areas.

Conclusions

48. During this scrutiny, the Committee has reflected that those seeking care and support do not always know or distinguish between the different Options, and that the focus on the Options in both staff training and development, and data collection can be misplaced. From the evidence it has gathered, the Committee has concluded that, to achieve successful implementation of SDS in accordance with its underlying principles, there needs to be a shift of emphasis away from the four Options set out in the Act and towards those underlying principles of choice and control and, ultimately, achieving positive outcomes for individuals.

49. The Committee recommends the Scottish Government produces updated guidance on the implementation of SDS to provide a framework that focuses on creative and flexible ways of achieving positive outcomes for individuals, informed by good practice and which is not solely focused on the original four Options. As examples, the Committee suggests this could include focusing on relationship-based support, ethical and collaborative commissioning models, and developing sustainable marketplaces of providers through initiatives to promote greater collaboration.

Introduction

50. The Scottish Government defines social care as follows:

> Social care supports people with daily living so they can be as independent as possible. It can also help people who look after a family member or loved one, like an unpaid carer. [1]

51. According to the provisions set out in the Social Care (Self-directed Support) (Scotland) Act 2013 (hereafter referred to as 'the Act'), which came into force a decade ago, self-directed support is the delivery mechanism for all social care in Scotland.

52. The aim of the Act was to ensure people have choice and control about how the social care they are assessed as needing, is arranged, managed and delivered.

53. Recognising there have been multiple recent policy developments in the area of social care in Scotland, and various issues with implementation of the Act, the Committee agreed it was both timely and appropriate to review how self-directed support (SDS) is working and what might be needed to improve implementation, and access to social care.

54. The Committee considered it important to seek the views of service users and those delivering social work and social care to help inform the focus of further scrutiny. The recommendations from these stakeholders were reported in the Committee's Phase 1 report.

55. During Phase 1, the Committee heard evidence that SDS has the potential to be transformational and that areas of good practice exist. When implemented well, it increases choice, flexibility and control for individuals. However, the Committee also heard that this was not everyone's experience and many of those the Committee engaged with highlighted the gap between the perceived intent of the legislation and what is happening in reality [2] .

56. Participants in engagement workstreams during Phase 1 made recommendations on areas where they felt the Committee should focus its scrutiny [3] . They told the Committee that ensuring a sustainable social care workforce and marketplace of providers was fundamental to making good social care a reality for more people. They called for a shift towards relationship-based support and underlined the need for staff from a variety of departments in HSCPs to understand the principles behind the legislation. It was thought that scrutinising processes and systems at a local authority level, increasing national consistency, and learning from successes and failures, could improve fairness and accessibility of social care.

57. During Phase 1, all stakeholders told the Committee that more work was required to address current issues around implementation of SDS and some expressed concerns that forthcoming legislation - the National Care Service Bill - may not adequately address their concerns.

58. In Phase 2, the Committee has taken the recommendations made by stakeholders during Phase 1 and used these to inform further scrutiny of:

- implementation of SDS by Health and Social Care Partnerships (HSCPs) and Local Authorities
- outcomes and actions set out in the SDS improvement plan
- monitoring and evaluation of SDS

59. This report builds on the Committee's Phase 1 report, reflecting on the evidence received during this part of the inquiry and sets out conclusions on necessary changes to improve the delivery of SDS and, by extension, social care.

60. The Committee would like to thank all of those who contributed to our post-legislative scrutiny.

Relevant policy and legislation

61. As a starting point to this phase of the Committee's scrutiny, this part of the report describes the Social Care (Self-directed Support) (Scotland) Act 2013 and other legislation relevant to the implementation of the Act.

62. While SDS is the means by which social care is organised, it presents a set of principles which align with those in other policy areas – collaboration, choice, control and an outcomes-focused approach.

63. By way of background, the Scottish Government published the Commission on the Future Delivery of Public Services in Scotland, known as the Christie Commission, in 2011 [4] . That report made a series of recommendations on public sector reform. The Social Care (Self-directed Support) (Scotland) Act 2013 and the Public Bodies (Joint Working) (Scotland) Act 2014 were among legislation that was introduced following the report. These are national policies designed to empower people and communities to become more involved in designing and delivering services that affect them.

64. During its scrutiny, the Committee has also considered how legislation to establish a National Care Service in Scotland could impact on the implementation of SDS.

Social Care (Self-directed Support) (Scotland) Act 2013

65. The Scottish Government published Self-directed support: A National Strategy for Scotland in October 2010. This ten-year strategy was intended to set the agenda for self-directed support in Scotland [5] .

66. The Social Care (Self-Directed Support) (Scotland) Act 2013 came into effect in April 2014.

67. Both the strategy and legislation aimed to introduce significant changes to how social care services were arranged and provided by local authorities.

68. Four fundamental principles of SDS are built into the Act – participation and dignity, involvement, informed choice, and collaboration. The legislation stipulates that all social care in Scotland should be provided in line with the principles set out in the Act.

69. In addition to the principles, and along with some other requirements, the Act contains a duty on local authorities to offer four Options to people who have been assessed as needing a community care service:

- Option 1: The individual or carer chooses and arranges the support and manages the budget as a direct payment.
- Option 2: The individual chooses the support, and the authority or other organisation arranges the chosen support and manages the budget.
- Option 3: The authority chooses and arranges the support.

- Option 4: A mixture of Options 1, 2 and 3.

Public Bodies (Joint Working) (Scotland) Act 2014

70. The Public Bodies (Joint Working) (Scotland) Act 2014, introduced to Scottish Parliament after the SDS Act received Royal Assent in 2013, initiated a significant programme of public sector reform. It established a framework for integrating adult health and social care support in Scotland and significantly changing the way health and social care services are planned and delivered.

71. The Act required local authorities and NHS boards to integrate the governance, planning and resourcing of adult social care services and key health services, by establishing an 'Integration Authority' using one of two structural models:

    1. a body corporate known as an Integration Joint Board (IJB), or
    2. a lead agency model featuring an Integrated Joint Monitoring Committee (IJMC).

    There are 31 Integration Authorities, consisting of 30 Integration Joint Boards (IJBs) and one lead agency model, located in the Highland area of Scotland.

72. The Public Bodies (Joint Working) (Scotland) Act 2014 places a requirement on the IJB or IJMC to create a strategic plan for the area for which it is responsible, with the aim of delivering the nine National Health and Wellbeing Outcomes. Health and Social Care Partnerships (HSCPs) deliver health and social care services on behalf of the IJB or IJMC in line with its strategic plan for health and social care.

73. The Act sets out integration planning principles which stipulate that services should be provided in a way which:

> (i) is integrated from the point of view of service-users,
>
> (ii) takes account of the particular needs of different service-users,
>
> (iii) takes account of the particular needs of service-users in different parts of the area in which the service is being provided,
>
> (iv) takes account of the particular characteristics and circumstances of different service-users,
>
> (v) respects the rights of service-users,
>
> (vi) takes account of the dignity of service-users,
>
> (vii) takes account of the participation by service-users in the community in which service-users live,
>
> (viii) protects and improves the safety of service-users,
>
> (ix) improves the quality of the service,
>
> (x) is planned and led locally in a way which is engaged with the community (including in particular service-users, those who look after service-users and those who are involved in the provision of health or social care),
>
> (xi) best anticipates needs and prevents them arising, and
>
> (xii) makes the best use of the available facilities, people and other resources.

National Care Service (Scotland) Bill

74. The National Care Service (Scotland) Bill was introduced in the Scottish Parliament in June 2022. At the time of writing, the Bill is at Stage 2 of its parliamentary consideration.

75. The Bill, as introduced, provides an overarching framework for the creation of a National Care Service. Section 1 of the Bill sets out a series of principles underpinning the proposed National Care Service. The Policy Memorandum describes these principles as reflecting the following opportunities and further states that the intention is to "make clear from the outset the Scottish Government's commitment to deliver on them" [6] :

> Embed human rights in care support
>
> Increase equality and enable people and communities to thrive
>
> Ensure that the NCS is an exemplar of Fair Work practices
>
> Effectively co-design services with people with lived and living experience
>
> Ensure that the care workforce is recognised and valued
>
> Improve outcomes through prevention and early intervention
>
> Provide financially sustainable care giving security and stability to people and their carers
>
> Ensure that the NCS communicates with people in an inclusive way.

Guidance, data and improvement work

76. This part of the report provides an overview of the guidance and standards produced to support the implementation of SDS. It also provides information about data collection and some of the main reviews of SDS that have been undertaken since the legislation entered force, as well as the Scottish Government's current improvement plan.

Guidance

77. The Scottish Government issued statutory guidance in 2014 on the provision of social care support, and related processes to support the implementation of the Act.

78. This guidance was issued to local authorities to help them to fulfil their duties under the Act. The purpose of the guidance is described as being to explain "what authorities should do to make sure that people are able to get the support that is right for them" [7] .

79. The guidance was most recently updated in 2022 and the Scottish Government website describes how the guidance has changed over time. The purpose of the 2022 update is described as being to make it "clearer that Self-directed Support (SDS) is for everyone in Scotland who needs social care services or support" [7] .

80. The Care Inspectorate has also collated a Self-directed Support Library which brings together many publications, reports and guidance documents relating to SDS.

Standards

81. A SDS Framework of Standards was published in 2021. This was most recently updated on 31 May 2024, after the Committee's post-legislative scrutiny started. The document states [8] :

> The Framework, with twelve standards, and accompanying practice statements and core components, was designed to align with the Self-directed Support statutory guidance to support system change, implementation, practice and consistency of outcomes experienced by supported people (children and adults) and unpaid carers across Scotland.

82. The document goes on to state [8] :

> The Standards are not in themselves statutory, but aim to support best practice and demonstrate what good Self-directed Support implementation looks like. At the time of publication, there was a commitment to review and revise the Framework within the first three years

Data and reviews

Data

83. Public Health Scotland published a Social Care Insights Dashboard for SDS in February 2023, which sets out a range of information on implementation of SDS by Health and Social Care Partnerships. The website describes the Dashboard as an early release that would be updated and developed. It was last updated on 21 March 2024.

84. The Health and Care Experience Survey 2023/24: National Results was published on 28 May 2024. The most relevant sections to the Committee's current scrutiny are 'Care, Support and Help with Everyday Living', and 'Experiences of Carers'. Public Health Scotland has also published the raw data for this in a series of online dashboards.

Implementation study

85. In 2017, the Scottish Government commissioned a consortium of Blake Stevenson Ltd, Rocket Science and the York Health Economics Consortium (YHEC) to conduct research to contribute to the national monitoring and evaluation of SDS. The main aims of the study were to assess and analyse the existing evidence base, and to produce a refreshed set of key research questions to support ongoing monitoring and evaluation.

86. The Scottish Government published four reports from the research:

- Self-directed Support Implementation Study 2018: report 1 presents a change map for SDS and accompanying narrative.
- Self-directed Support Implementation Study 2018: report 2 presents the results of: an international literature review; an assessment of current data and other evidence in Scotland on self-directed support; and material from case studies.
- Self-directed Support Implementation Study 2018: report 3 presents findings from 13 case studies of self-directed support in Scotland in 2018.
- Self-directed Support Implementation Study 2018: report 4 summarises components of the research detailed in the previous reports.

My Support, My Choice: User Experiences of Self-directed Support in Scotland

87. 'My Support My Choice' was a joint project between the ALLIANCE and Self Directed Support Scotland (SDSS), funded by the Scottish Government. The project aimed to establish how SDS and social care is working in practice for social care users (people who get support or services paid for by the council so that they can do everyday tasks) across Scotland.

88. In 2020, the ALLIANCE published a national research report and a suite of thematic reports focused on the experiences of different population groups.

Other reviews and data sources

89. The following reviews of SDS have also been undertaken:

- In 2017, Audit Scotland published a progress report on Self-directed support.
- In 2019, the Care Inspectorate undertook a Thematic review of self-directed support in Scotland: Transforming lives.
- In 2021, IRISS published a short insights report on Self-directed support: ten years on
- In 2021, the Scottish Government published the Independent Review of Adult Social Care in Scotland, known as the Feeley Review. Chapter 7 of the Review considers Self-directed support.

Improvement plan

90. The Scottish Government published its most recent Self-directed support: improvement plan 2023 to 2027 in June 2023. This followed stakeholder calls for a new plan to be published setting out the future direction of SDS improvement, after the previous plan had expired in 2021.

91. Co-developed by a working group, the stated intention of the plan is to "support the delivery of the national SDS Strategy by ensuring cohesive implementation of Self-Directed Support. [9] "

92. The plan also states that the Scottish Government has identified four outcome areas reflecting where improvements in how SDS is delivered are most needed. These are shown in the table below [9] .

Four overarching outcome areas of the Improvement Plan

Outcome
1. supported person and carer's choice over their support, where success means access to information, advice and advocacy, access to quality support, and control and involvement for supported people over how it is delivered.
2. enhanced worker skills, practice and autonomy, where success means workers across all aspects of social care support are better able to practice in line with SDS values and with statutory duties (where applicable), standards, skills, and knowledge.
3. systems and culture, where success means national and local SDS system and planning design is more person-centred and person-led, including through involving supported people and carers.
4. leaders understand and help staff realise SDS principles and values, where success means duty-bearers and senior staff supporting their workforce and creating the culture and conditions for supported people to have choice and control over their social care support.

The National SDS Collaboration

93. The National SDS Collaboration is a group of stakeholders involved in the

implementation and improvement of Self-Directed Support in Scotland. Self Directed Support Scotland (SDSS) chair the National SDS Collaboration and its website lists the membership, terms of reference, role in developing the Scottish Government's Implementation Plan, and improvement work.

94. Set up in 2022, the Collaboration's terms of reference include improvement, collaboration, and influence. Under 'Collaboration', the terms of reference state [10] :

> The National Collaboration will identify challenges to implementation, work with a variety of implementation and improvement tools to develop a shared perspective on Self-directed Support as practice and as system, and identify what needs to happen (the enabling context) for Self-directed Support to be successful in improving the lives of people accessing care and support.

95. The Improvement Plan states that the aim of the Collaboration is to "ensure that Scottish Government policy around SDS is informed by a wide range of people including those who have lived experience of SDS, or who are involved in delivering it" [9] . One of the first priorities of the Collaboration was to develop the Improvement Plan outlined above.

Health, Social Care and Sport Committee Scrutiny

96. The Committee agreed to undertake post-legislative scrutiny of the Act at its meeting on 27 June 2023. The agreed purpose of its scrutiny was to understand reported issues around implementation of SDS, examine whether practice is in line with the principles and values of the legislation, and explore what future action may be required.

97. At its meeting on 5 September 2023, the Committee agreed its scrutiny would focus on three main areas:

   - The current picture of SDS - The Committee would seek to better understand what SDS looks like to individuals in receipt of care and other key stakeholders, exploring the implementation gap that has been found to exist between the policy intent behind SDS legislation and what happens in practice.

   - Improvement plan 2023 to 2027 - The Committee would scrutinise the Improvement Plan and assess to what extent and in what ways this will help deliver the original aims of the Act and if further action is needed.

   - Monitoring and evaluation - The Committee would explore how SDS is currently monitored and evaluated, taking account of the findings of the 2018 research commissioned by the Scottish Government on the implementation of self-directed support.

98. At that meeting, the Committee also agreed a two-phase approach to its scrutiny:

   - Phase 1 would focus on information gathering, taking place November 2023 – February 2024.

   - Phase 2 would follow later in 2024, informed by analysis of the information gathered during Phase 1.

Phase 1

99. The Committee worked with several stakeholder organisations, forming a stakeholder reference group, to help determine the focus of Phase 1 of the inquiry. This reference group included representatives from the following organisations:

   - Carers Scotland

   - Coalition of Care and Support Providers in Scotland (CCPS)

   - Scottish Care

   - Social Work Scotland (SWS)

   - Scottish Social Services Council (SSSC)

   - Inclusion Scotland

- PA Network Scotland

100. The PA Network Scotland was unable to attend the reference group meeting but provided feedback afterwards in writing on what had been discussed.

101. Based on the conclusions reached at the reference group meeting, the Committee agreed that its information gathering at Phase 1 should centre on four key stakeholder groups:

- Individuals with experiences of self-directed support
- Carers
- Frontline social care and social work staff
- Social care providers

102. At an early stage of follow-up discussions with stakeholders, it was subsequently agreed that social care staff and social work staff should be separated out into two key groups and two resulting workstreams.

103. The Committee worked with representatives from the reference group to undertake the following activities as part of Phase 1:

1. Private briefing to the Committee
2. Call for views
3. Engagement workstreams
4. Seek further information from the Scottish Government

104. On 3 May 2024, the Committee published an interim Phase 1 report, setting out the information it had gathered during that Phase.

Private briefing to the Committee

105. On 14 November 2023, the Committee undertook a short private roundtable with key stakeholder organisations to explore experiences of SDS and issues with implementation of the Act. Representatives from the following organisations, identified through the reference group, were invited to this session:

Stakeholder group	Representative organisation
Individuals with experiences of SDS	Inclusion Scotland
Carers	Carers Scotland
Frontline social care and social work staff	Social Work Scotland
Social care providers	Coalition of Care and Support Providers in Scotland

Call for views

106. The Committee launched a call for views, which was open for submissions between 3 November 2023 and 12 January 2024. Alongside general demographic questions to allow for ease of analysis, the call for views asked one main question:

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

107. A summary of key issues arising from the responses received was published on the Scottish Parliament website [11] .

Engagement workstreams

108. The Committee worked with organisations from the reference group to develop and deliver five engagement workstreams, based on the following previously identified key stakeholder groups, to explore views on the implementation of SDS to date among stakeholders recruited by those same organisations:

- Individuals with experiences of self-directed support
- Carers
- Frontline social care staff
- Frontline social work staff
- Social care providers

109. Using a deliberative democracy approach[ii] to enable the views of the public to inform the Committee's scrutiny, Scottish Parliament staff including from the Scottish Parliament's Participation and Communities team (PACT) and the Scottish Parliament Information Centre (SPICe), met with each of these five groups separately, twice during December 2023 and January 2024 to:

- Develop parliamentary awareness and understanding, including in relation to the role of the Committee;
- Introduce the concept of post-legislative scrutiny, alongside examples of inquiries undertaken by other parliamentary committees;
- Provide background to the Social Care (Self Directed Support) (Scotland) Act 2013 and the Scottish Government's latest improvement plan;
- Work with participants to develop recommendations for the Committee on areas of focus during Phase 2 of its scrutiny; and
- Prepare participants to present collective recommendations to the Committee.

110. Representatives from each workstream were invited to give oral feedback on their recommendations to the Committee at its meeting on 20 February 2024. A list of recommendations from each of the five workstreams has been published on the Committee's webpage.

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ii Deliberative democracy approaches involve convening groups of people to learn, deliberate, and develop collective recommendations that consider the complexities and compromises required for solving multifaceted public issues.

Information from the Scottish Government

111. The Committee wrote to the Scottish Government, in November 2023, seeking further information on the following to inform its consideration as part of Phase 1:

- Updates on the actions set out as part of the Scottish Government's response to the Public Audit and Post-legislative Scrutiny Committee's 2018 inquiry (included at Annexe A);
- The consultation that informed the current improvement plan and actions detailed within the plan;
- Any actions taken or planned to address the recommendations from the Scottish Government commissioned research on monitoring and evaluation, published in 2018.

112. The Committee received a response from the Minister for Social Care, Mental Wellbeing and Sport on 13 December 2023.

Conclusions from Phase 1

113. From the information gathered as part of Phase 1 of the Committee's post-legislative scrutiny, it was clear that there was a role for the Committee to undertake further scrutiny into the way SDS is accessed, organised, delivered and monitored/evaluated.

114. The Committee's Phase 1 report set out a number of themes that would merit further scrutiny, specifically in relation to SDS, namely:

- Commissioning and tendering
- Fair work and staffing
- Local authority processes
- Monitoring and transparency
- National consistency

115. The Committee is currently undertaking ongoing scrutiny of the National Care Service (Scotland) Bill, which includes consideration of some of the topics outlined above as part of Phase 1. However, the Committee agreed there would be additional merit in exploring these specifically through the lens of SDS, especially given concerns that some stakeholders raised over the lack of reference to SDS in the National Care Service Bill. The Committee agreed that undertaking such scrutiny could also be helpful to inform the Committee's ongoing scrutiny of the National Care Service (Scotland) Bill at Stage 2.

Phase 2

116. At its meeting on 30 April 2024, the Committee considered and agreed its approach to Phase 2 of its post-legislative scrutiny of the Act.

117. In order to scrutinise the themes arising from Phase 1, the Committee held four evidence sessions during June 2024, taking evidence from stakeholders detailed below:

Meeting date	Witnesses	Session overview
4 June 2024	Representatives of organisations currently in receipt of funding to deliver on the improvement plan outcomes.	To explore outcomes and actions set out in the SDS improvement plan, and assess available standards, guidance and support for social work staff, social care staff and social care providers, and how these might be improved.
11 June 2024	Representatives from four IJBs, who are responsible for the implementation of SDS in their areas.	To focus on issues including internal processes, measurement of unmet need, commissioning practices, delivery models and staff training on SDS.
18 June 2024	Representatives from organisations involved in scrutinising SDS implementation, or working in the sphere of health and social care improvement in Scotland.	To focus on what effective monitoring and evaluation looks like in relation to SDS and what key data may be required to help drive forward improvements in SDS implementation.
25 June 2024	The Minister for Social Care, Mental Wellbeing and Sport and supporting officials.	To discuss the evidence the Committee has gathered about the success and challenges of the implementation of the SDS Act over the past decade.

118. In this, the main part of the report, the Committee considers the evidence it has taken from stakeholders during Phase 2, evaluating these based on the recommendations that the Phase 1 engagement workstreams formulated, other information gathered during Phase 1, and the priorities as set out in the improvement plan.

119. The following key themes, or areas for improvement, have emerged during the Committee's scrutiny:

- The sector and its staff
- Consistency
- Monitoring, accountability and transparency
- Alignment of legislation and policy

The sector and its staff

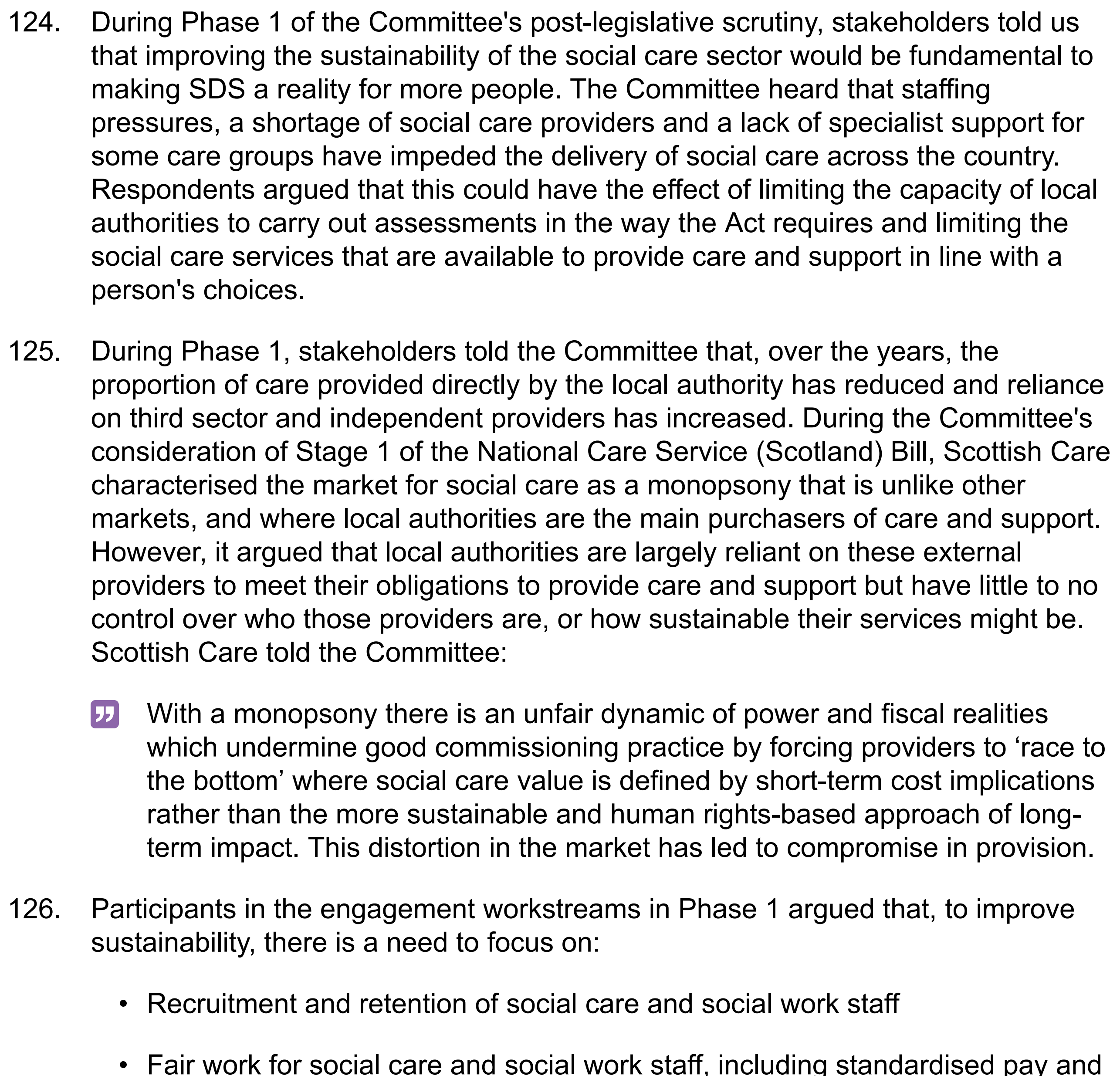
120. Under current legislation, the Social Work (Scotland) Act 1968, there is no legal right to care and support in Scotland; there are legal duties on local authorities to carry out assessments, to provide advice, guidance and assistance and to make arrangements for the provision of services. Section 12 of this Act stipulates that social care is provided, and paid for, if someone is assessed as needing it and is deemed eligible, via the assessment of need and finances.

121. The Social Care (Self-directed Support) (Scotland) Act 2013: statutory guidance sets out the range of people, organisations and authority functions with responsibilities concerning the assessment of needs under the SDS Act.

122. Social workers are considered to be key staff for the successful implementation of SDS. They are responsible for undertaking assessments and having conversations with individuals about the needs and outcomes they need support with. Anyone can ask for, and has a legal right to, an assessment from their local authority. The local authority's social work department carries out an assessment of needs and organises agreed supports through SDS, if someone is assessed as needing care and support. Under the Act, this care can then be organised and arranged through one of the four Options referred to earlier in this report. The statutory guidance states that "They must ensure the supported person is involved as far as is possible, and their voice and wishes respected. [7] "

123. Once someone is assessed as needing care and deemed eligible for support from the local authority, care and support can be provided in different ways. These include care delivered directly by the HSCP facilities and staff, third sector organisations, private and not for profit businesses and by directly employed personal assistants. These are all considered to be valid different types of social care provider.

Sustainability of the sector



124. During Phase 1 of the Committee's post-legislative scrutiny, stakeholders told us that improving the sustainability of the social care sector would be fundamental to making SDS a reality for more people. The Committee heard that staffing pressures, a shortage of social care providers and a lack of specialist support for some care groups have impeded the delivery of social care across the country. Respondents argued that this could have the effect of limiting the capacity of local authorities to carry out assessments in the way the Act requires and limiting the social care services that are available to provide care and support in line with a person's choices.

125. During Phase 1, stakeholders told the Committee that, over the years, the proportion of care provided directly by the local authority has reduced and reliance on third sector and independent providers has increased. During the Committee's consideration of Stage 1 of the National Care Service (Scotland) Bill, Scottish Care characterised the market for social care as a monopsony that is unlike other markets, and where local authorities are the main purchasers of care and support. However, it argued that local authorities are largely reliant on these external providers to meet their obligations to provide care and support but have little to no control over who those providers are, or how sustainable their services might be. Scottish Care told the Committee:

> With a monopsony there is an unfair dynamic of power and fiscal realities which undermine good commissioning practice by forcing providers to ‘race to the bottom’ where social care value is defined by short-term cost implications rather than the more sustainable and human rights-based approach of long-term impact. This distortion in the market has led to compromise in provision.

126. Participants in the engagement workstreams in Phase 1 argued that, to improve sustainability, there is a need to focus on:

- Recruitment and retention of social care and social work staff
- Fair work for social care and social work staff, including standardised pay and

terms and conditions

- Increased support for social care providers
- Investment in leadership across sectors to deliver relationship-based support
- Ensuring workforce planning is orientated towards demand rather than supply
- Regulation of the whole social care workforce

127. It is the Committee's view that activities prioritised in the Scottish Government's improvement plan do not seem to address the overall sustainability of the sector, or the marketplace of providers available and this is a matter of concern.

128. The improvement plan sets out how "the implementation of SDS is dependent on work being undertaken across other priority national policy areas" and outlines a number of other key challenges facing the health and social care system which may hamper the plan's successful implementation:

> The publication of this plan comes at a time of immense pressure across the health and social care system. There are challenges in the recruitment and retention of the social care and social work workforce; the continued impact of Covid-19 and recovery; the cost of living crisis; and the impact of a very challenging budgetary and financial context [9] .

It goes on to argue that the implementation of SDS is dependent on work being undertaken across other priority national policy areas, such as the development of a National Care Service. It further states:

> This Plan seeks to recognise and complement all of the important and innovative work that is happening across the system to improve the quality and delivery of social care. Our partners involved in the development and implementation of this Plan are committed to proactively identifying and strengthening links with other related work to ensure coherence and efficiency [9] .

129. During Phase 2, the Committee explored some of the challenges within the wider context of social care, including whether the Act can deliver its aims within such a challenging environment. In particular the Committee focused on:

- Pressures on social care organisations and the available marketplace of providers
- Social work staff, including education, training and fair work

Pressures on social care organisations and the available marketplace of providers

130. The Committee has previously considered the pressures on social care organisations and the available market place of providers, as part of its work to scrutinise Stage 1 of the National Care Service (Scotland) Bill. That scrutiny highlighted a social care workforce working, and continuing to work, under

"immense pressure", with a range of challenges including in relation to staffing, fair work, parity, and how the social care sector is publicly seen and valued, all of which have affected the sustainability of social care services [12] .

131. During Phase 1 of this post-legislative scrutiny, the Committee heard that challenges around financing and resourcing of social care services have created key barriers to fostering a comprehensive marketplace of social care providers in many local areas. For example, stakeholders highlighted the following issues:

- There are differential rates for providing support across the SDS Options and depending on which organisation fulfils the contract (i.e. local authorities or other providers).
- The currently available rates for social care delivery are not sustainable for organisations as they do not allow fair work principles to be put into action.
- That current rates are insufficient to allow frontline staff the autonomy to take an outcomes-focused approach.

132. Stephen Morgan, service director in social work services and chief social work officer at Dumfries and Galloway Council, spoke to the Committee about the availability of social care providers across the region and the impact this can have on provision of the SDS Options as set out in the Act. He argued that the social care landscape "makes it tremendously difficult for people to have the choice that we would want them to have" [13] . He highlighted that the majority of SDS in the area is delivered under Option 3, whereby the authority chooses and arranges the support, and surmised that this was often due to limited social care provision and capacity:

> Third sector involvement in the region is limited with regard to the other options. Our care-at-home market is a mix of in-house and private providers, but private providers have limited reach across the region, with quite small pockets of provision, and the costings can vary. With option 1, people are struggling to find someone living nearby who can take on the personal assistant role, and the difficulty involved in becoming an employer puts people off. We do have some services that assist us; for example, Capability Scotland is a tremendous organisation locally, but its capacity to support is fully used [13] .

133. Stephen further noted that the number of people accessing support though Option 2 (whereby the individual chooses the support, and the authority or other organisation arranges the chosen support and manages the budget) is "virtually zero". Stephen went on to relay the experiences of many social workers in his region, namely that it can often be less about choice of care, but whether *any* care is available:

> [...] they feel as though there is no choice for people and, sometimes, no care is available. Therefore, in that part of the region, those citizens will be saying, "We want care to be available on our doorstep." Whether that is done through them employing somebody themselves or that is done through the council or the HSCPs, they just want things to be available because, in some parts of the region, that care is not there [13] .

134. Diane Fraser from North Lanarkshire and David Aitken from East Dunbartonshire confirmed that this lack of provision and a shortage of providers can also be seen

across their regions. Diane articulated that this made it "difficult to make sure that people get a choice" and that this was "particularly with regard to personal assistants, and the availability of appropriate resources" [13] . David Aitken also commented: "We have people with big ideas and things that they want to do and achieve, but they often have to return to option 2 or option 3 because of the lack of availability of personal assistants. [13] "

135. Representatives from all Integration Joint Boards giving evidence to the Committee spoke about work being undertaken in their areas to further examine community capacity and develop asset-based approaches. For example, Diane Fraser spoke about work underway in North Lanarkshire to re-establish locality planning groups to examine community planning structures and support for the development of different initiatives. In another example, Stephen Morgan spoke about work in Dumfries and Galloway around community conversations and undertaking community needs assessments in order to undertake a place-based approach.

136. The Committee has heard that an unsustainable social care sector with restrictions on available providers, how services are commissioned and procured, and the financial systems and models of care currently in place is hampering the effective implementation of SDS.

137. The Committee is of the view that in order to deliver SDS in accordance with the Act, there needs to be a range of social care providers to deliver that care across all regions, in accordance with how people choose to receive their support.

138. The Committee has heard good practice examples of certain local authority areas offering more choice using a range of different collaborative initiatives – namely through locality planning, community planning structures, and developing consortiums of care. The Committee calls on local authorities and COSLA to:

- identify areas where there is currently a lack of appropriate resources to offer people the choices they are entitled to under the legislation, and target support in those areas towards developing more collaborative initiatives to address this issue.
- embed or mainstream good practice across all local authorities to help overcome the current lack of choice and shortage of providers that exist within certain areas.

The Committee further calls on the Scottish Government to set out how it will ensure national oversight of this process.

Social workers

Education and training for social work staff

139. During Phase 1 of the Committee's scrutiny, stakeholders told us that staff knowledge and understanding of the intentions of the Act can have a substantial impact on how someone's social care is organised and delivered, and the extent to which this reflects the intentions and principles of the Act.

140. The recommendations from the Phase 1 engagement workstreams pointed to a need for specific SDS-focused education and training for social work students, personal assistants and social care managers, and for other staff groups within health and social care partnerships (HSCPs) who have limited knowledge of the legislation. The latter group includes those particularly involved in administration and financial decision-making related to self-directed support. Participants in the workstreams thought that skills-based and outcomes-focused training, rather than process-driven training, should be prioritised for staff. Their view was that most training currently focuses on navigating existing operational systems and models, rather than on understanding fully how SDS should be implemented in practice in accordance with the legislation and related guidance.

141. Giving evidence as part of Phase 2, witnesses told the Committee that there are known issues with current social worker training and that social workers are unlikely to have full awareness of the substance and intent of the SDS legislation. Donald Macleod from Self-directed Support Scotland (SDSS) said:

> Social workers vary in how well informed they are, and SDS is not routinely on the curriculum for social work students [14] .

Dr Kellock also stated her opinion that:

> [...] people do not get a particularly high awareness of self-directed support when they are training at university to become social workers. People often come out of courses without much understanding of self-directed support, so they have to learn on the job [14] .

142. Witnesses also spoke about how little time they currently have to undertake any continuing professional development. Stephen Morgan spoke of a need to focus not just on the educational curriculum, but also argued for a national approach to social worker training, as well as an enhanced focus on the post-qualification period:

> There are lots of things that we have to do. We have to look at the way that social workers are educated in our universities. […] We have to train people differently and we have to take a different approach to how we offer placements. We have to take a significantly different approach, and I believe that it should be a national one. Localisation and local decisions are important, but in respect of education for social workers and how we train them on the job, we need a national approach. We have a protected year for post-qualification social workers, which needs to be extended [13] .

143. Witnesses also told the Committee that wider constraints mean social workers do not spend adequate time with individuals who are seeking care and support. Addressing issues related to training about practice models[iii], Dr Kellock also told the Committee how current training reflects a care management model of practice[iv], whereas a more relationship-based model of practice would be preferable in helping to deliver on the intentions of the Act:

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iii Practice models are local frameworks that guide social worker engagement.

iv The Dictionary of Social Work and Social Care defines 'Assessment and Care Management' as: "An integrated and circular process for identifying and addressing the

> The main idea that we work with is the notion that it is the relationship between the supported person and the practitioner—the social worker or the paraprofessional who works with them—that draws out the solutions in respect of what matters for that individual. That relationship-based practice is absolutely at the heart of self-directed support. It is not possible to have choice and control unless you understand what matters to the person [14] .

144. Stephen Morgan also suggested that a lack of appropriate training on SDS coupled with wider pressures and constraints on staff mean that many people seeking social care and support are not receiving the support they need to help them make informed decisions about how they want their care to be managed and delivered. As an example, he pointed to a lack of appropriate advice available to those seeking to become an employer under option 1 of SDS, where the individual or carer chooses and arranges support and manages the budget as a direct payment:

> Our social work staff and others who undertake assessments are pressed for time when it comes to having conversations about becoming an employer. Moreover, some staff are not skilled in that area themselves, so we need to train them, and we have a programme in place that looks at the skills that our workers need [13] .

145. When asked what aspects of training in relation to SDS should be prioritised, Stephen Morgan told the Committee:

> I think that we first need to concentrate on those who undertake assessments and care and support planning, because they will have the front-line contact in relation to social care, so we should start there. They should have intensive training on having good conversations, for example, and innovation around support planning. Some of our nursing colleagues might be undertaking those assessments, which is great; we should include them. If those nurses are in an acute setting or a community setting and they do not undertake those assessments, we should make them aware that they can use the toolkits from In Control. We can make them available online, so there will be a hybrid model for the delivery of training. For the assessment and care planning elements, my preference is that our teams do that training in person, so that the richness of the training can come across, as well as the trainer's enthusiasm. We might bring in experts. I would suggest that we can use the many experts that we have internally, as well as those who are most committed and most innovative, to train the rest of the staff [13] .

146. David Williams told the Committee that, in his view, there was a difference in what was required across different staff groups, with some needing to improve their general awareness of SDS and others requiring detailed knowledge to ensure the policy is implemented effectively:

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needs of individuals within available resources, which recognizes, at least rhetorically, that those needs are unique to the individuals concerned."(source: Social Work Scotland)

> There is a difference between awareness raising and enacting the policy, which probably applies as much to the staff groups that are not directly engaged in the assessment of individuals who enter the system through self-directed support options. However, it may well be worth looking at bringing together more focused groups with social work staff on the trickier questions, such as appreciative inquiries, which we are looking at, as we enable our social work staff to become more consistent with the aspirations and ambitions of the self-directed support legislation [13] .

147. The second outcome area of the Scottish Government's improvement plan is focused on enhanced work skills practice and autonomy, underpinned by the following activities to achieve improvements [9] :

Improvement plan activities
2.1 Improve SDS Practice Resources2.1.1 Finalise, publish online and promote practitioner toolkit as a guide to SDS practice resources.2.1.2 Update and roll-out of practice guidance to support implementation consistent with the refreshed SDS Statutory Guidance and revised SDS Framework of Standards. See also Theme 4.3 (Standards).
2.2 Social work education and incorporation of practice development for SDS2.2.1 Ensure the principles of SDS are reflected in the emerging post-qualifying Advanced Practice Framework for Social Work, including describing the knowledge, competencies and skills required across the full breadth of social work roles (framework to be launched by OCSWA September 2024, followed by the development of a training plan).2.2.2 Review of current SDS training at both local and national level, consistent with an alignment to the developing Advanced Practice Framework for Social Work (see above)

148. Social Work Scotland provided written follow-up to Dr Kellock's oral evidence to the Committee on 4 June. This letter sets out the Social Work Scotland SDS project workstreams, which focus on implementation activity for the social work profession and are drawn from the implementation plan. The letter states:

> Workstream 7 is about improving SDS training for social workers. We are undertaking research currently to determine the implementation gap. We are in early discussions with the Community Brokerage Network about adapting their gold standard training to meet the needs of social workers. Future roll out of will require additional project resources for training delivery, as well as systems change that allows social workers to be freed up to attend training, and system support for a relationship-based practice model [15] .

149. In her oral evidence to the Committee, the Minister for Social Care, Mental Wellbeing and Sport also recognised challenges around education and training of social workers and SDS:

> We need better liaison between local authorities and universities in order to ensure that there are training placements for undergraduates and postgraduates so that they can be supported to become the professionals that we need them to be. We need a strong postgraduate process of further education […] There is a period of further training once you are qualified, so we want that postdegree support, mentoring and training to be in place, solidified and nationally led [16] .

150. In particular, the Minister provided further detail of the training she felt would be required to support the social work profession with respect to SDS:

> From my perspective, as a general rule, it is really important that we support that profession and that we ensure that they are supported to make the professional and statutorily underpinned decisions that they are meant to be making to support individuals' human rights as they access social care. We can do that by tackling both undergraduate and postgraduate support and training. The work that we mentioned earlier to support and mentor newly qualified social workers and to ensure that there is a pathway in place for social workers who want to pursue higher qualifications—postgraduate qualifications—is really important. That needs to reflect not only the practical operation of SDS, but the culture and ethos of SDS, which is about flexibility, choice and upholding people's independence [16] .

She further recognised the need for training for other staff groups, and highlighted the role of NHS Education for Scotland in taking forward that training:

> Everybody working in the health and social care system as a whole needs to have an understanding of how social care in Scotland works. There needs to be a level of working knowledge in both the healthcare system and the social care system to ensure that things are operating efficiently and effectively across the board [...] For people who are working in the system, we have an opportunity, through NHS Education for Scotland and Scottish Social Services Council registration, to provide training packages that work in a multidisciplinary way right across the system. I think that that will be really helpful in tackling some of the barriers [16] .

151. The Minister went on to argue that the establishment of a national social work agency as part of the National Care Service would help address challenges around education and training through the establishment of core standards:

> The national social work agency will provide us with an opportunity to put in core standards to which every social worker will be expected to work [16] .

Joanne Finlay, a Scottish Government official accompanying the Minister also spoke about the work being done by local authorities to identify gaps in training and the planned role of the proposed national social work agency:

> We give out the local authority transformational funding each year, which is £3.696 million this year. I have just received back all the reports from local authorities. One thing that we asked about was staffing. Quite a few local authorities mentioned using some of the funding to help to train some of their new social workers, because they had noticed that there was a bit of a gap in their university training once they had come in to post. That issue has been identified in the committee, and I know that it has been acknowledged and is being addressed through development of the national social work agency and some of the work that local authorities are doing currently. It is quite good that we can see that some of the funding is being used to do that through the statutory sector [16] .

152. The Committee has heard evidence that a lack of knowledge and understanding of the principles of the Act, among key staff – both social work staff and others

involved in decision making – is having a substantial impact on how social care is organised and delivered and is contributing to the poor implementation of SDS.

153. The Committee understands that social work students are expected to achieve a practical understanding of SDS as part of placement-based learning. However, the Committee has been concerned by evidence that, when it is supposed to be the mechanism for delivery of all social care in Scotland, SDS does not consistently form part of the taught curriculum for social work students in Scottish educational establishments. The Committee calls on the Scottish Government to establish the extent to which SDS is taught within Scottish educational establishments and, if there are gaps, what plans it has to address these.

154. The Committee has heard evidence that significant learning takes place during the post-qualification period for newly qualified social workers (NQSWs). The Committee recommends that all NQSWs are routinely given access to continued support and development as part of the post-qualification period that specifically focuses on delivering the principles of SDS using relationship-based practice. The Committee calls on the Scottish Government and the Scottish Social Services Council to ensure this is an integral part of the NQSW Supported Year in Scotland.

155. The Committee has further heard that many local authorities are applying a care-management model approach to social work, whereby social workers act as brokers arranging services based on defined procedures. Where such an approach is utilised, it is in place of engaging with individuals to build relationships and deliver flexible needs-based support focused on building resilience and prevention in communities. In order to fully realise the principles of the Act, it is clear that a more relationship-based approach to social work practice is required. The Committee calls on local authorities to set out what actions they will take to facilitate a shift in social work practice in their areas towards a relationship-based model. The Committee calls on the Scottish Government to set out how it will ensure national oversight of this process.

156. The Committee further asks the Scottish Government to set out to what extent, and how, it intends to exercise national oversight to ensure social workers are permitted the necessary time to be able to undertake assessments using relationship-based practice as a mechanism for ensuring the principles of the Act are consistently delivered across the country.

157. In order to establish more collaborative systems and processes, the Committee also calls on COSLA and other relevant stakeholders to ensure that all staff in local authorities who are involved in SDS decision-making are required to undertake appropriate training on the legislation and the principles that underpin it. In addition to social work staff, this should include finance and administration staff, managers, those involved in commissioning and procurement, and councillors.

Fair work for social work staff

158. Fair work for social care staff was extensively explored by the Committee as part of

its Stage 1 scrutiny of the National Care Service (Scotland) Bill. During this post-legislative scrutiny, the Committee has been told that near identical issues related to fair work also exist for social work staff.

159. Throughout both Phase 1 and Phase 2, the Committee has heard that the social work profession is under significant pressure. Stakeholders have argued that, as well as fair work issues, social workers can be subject to many constraints including availability of social care services, how services are commissioned locally, how finance staff calculate budgets and the time it takes to deliver services.

160. Pivotally, many stakeholders told the Committee these constraints mean that social workers are unable to work in the relationship-based way that is generally considered to be fundamental to successful delivery of the legislation. David Williams from Clackmannanshire and Stirling Integration Joint Board said:

> The workloads that social workers have and the pressures that they are under from all sorts of angles mean that they rarely have the opportunity to develop a good relationship with somebody who wants to move forward with their life and to have the opportunities and choices that we all take for granted [13] .

161. Pauline Lunn highlighted by research undertaken by In Control Scotland concerning option 3 of SDS which, through conversations with front-line social workers, had exposed the significant pressures social workers face during the course of their work:

> [...] people spoke about feeling like they were on a hamster wheel—that is, constantly in motion but not getting anywhere. The current models, systems and practices are bureaucratic and unwieldy [...] Those things take time, energy and effort and they are not the reasons why people become social workers. People do not become social workers because they want to fill out forms and present to panels. They become social workers or social care workers because they care about people and want to make their lives better [14] .

162. Witnesses also spoke of a vicious cycle that many social work staff are exposed to. David Williams told the Committee:

> The more pressures and stresses that social work staff are under, the less capacity they have emotionally and in terms of time to be able to take on the things that need to be done [13] .

163. Dr Jane Kellock from Social Work Scotland told the Committee that, typically, social workers will only stay in the profession for six- or seven-years post qualification. She cited terms and conditions, work-life balance and the practice model used in social work as possible reasons for such a short average career span, and went on to say:

> One of the big things that came out of the recent research that Social Work Scotland commissioned concerned the case load balance for social workers—that was a huge issue. As the profession has increasingly relied on paraprofessionals to do some of the less complex work, the case loads of qualified social workers have become more complex and larger. Social workers are faced with really complex work that often has to be done at the point of crisis [...] Workers are leaving the profession earlier, and we have also seen quite a lot of social workers retiring relatively recently without a sufficient workforce coming in to fill the gap. We are definitely seeing newly qualified social workers having to take on more complex cases [14] .

164. Dr Kellock further set out her view that "it is unethical to expect a workforce to deal with crisis at that level for such a long period". She added:

> When you are dealing only with people in crisis, you lose some of the skill and ability to think creatively with people, which is really what is needed for self-directed support [14] .

165. Many stakeholders giving evidence to the Committee during Phase 1 and Phase 2 were in agreement that, to be able to deliver SDS as originally intended by the legislation, the number of social workers in Scotland needs to increase. Beyond this, Dr Kellock further argued that improvements need to be made to the 'practice model' of social work delivery:

> I would draw the distinction between the volume of people that we need—we need more workers, they need to be better paid and we need to attract people into the sector—and the systems issue. At the moment, the practice model is not right. The systems that sit behind social workers and social work practitioners and local authorities are cumbersome and difficult to navigate, so improvements are definitely needed in order that we have a practice model that is well placed to support the fundamental principle of self-directed support, which is choice and control [14] .

166. Des McCart from Healthcare Improvement Scotland spoke about improvement work currently being undertaken as part of the National SDS Collaboration and expressed his view that empowering social workers is key to making improvements in both the delivery of SDS and workforce performance:

> If SDS is about returning power to people, those closest to them in that arrangement also need to be empowered, so you need front-line staff who are confident and able to make decisions [...] staff feeling that their job is not just to administer the system as they are told. Instead, they feel able to bring back information and to say, “When we are doing this, we are learning that this is tough and this is doable but there is a way that you can improve it,” and they are being listened to [...] One way to improve things is to empower front-line staff so that they get that joy back into their work [17] .

167. During her evidence, the Minister for Social Care, Mental Wellbeing and Sport underlined her commitment to supporting the social work profession in relation to fair work:

> We will improve those by not just tackling pay, although that is really important, but social care conditions and the level of support for social care staff, so that they feel well supported and can flourish in their vital professional role. Work is under way right across the piece to do that, but it is not as simple as flicking a switch, and it is exceptionally costly, so it must be done carefully. I would like us to go further and faster, but I think that we are on the right path. Each social care worker in Scotland is paid £2,000 more than they were paid last year. Their wages are going up substantially each year. Social care workers in Scotland are paid more than, and pay less tax than, their counterparts in the rest of the United Kingdom. We are on the right pathway. We are not where we want to be, but, as a Government, we have set out our stall and are making incremental improvements in social care that will help us to solve the big-picture problems [16] .

168. The Minister also recognised the need to empower the profession to be able to support individuals in a way that better reflects the principles behind SDS:

> With regard to the social work profession, I absolutely recognise that there is a challenge in there for Government. Over a number of years, however, the system has forced them to focus on issues such as budgets and eligibility, rather than on the individual requiring care who should be at the centre, and who requires their needs to be met and their rights to be upheld. I see it as a responsibility of Government to ensure that social workers can go back to the job that they came in to do [...] The evidence is anecdotal, but it is clear that if we support the profession, the quality will be lifted throughout the country [16] .

169. The Minister went on to suggest that the establishment of a National Care Service would address some of these challenges:

> You will be aware that there are 32 different employers for social workers across Scotland, with 32 different sets of paying conditions and 32 different local authorities that do workforce planning for social work. We see the national care service as a real opportunity to bring some cohesion to that picture. The planned national social work agency will sit on the national care service board and bring some national standards and planning to the particular challenges for that profession. I see the national care service as a real opportunity for social workers [...] they are crucial to the high-quality functioning of a social care system. Supporting the profession and ensuring that social workers flourish and thrive and are able to do the job that they came in to do is a really important part of how we intend to improve the quality of social care in the future [16] .

170. During its scrutiny, the Committee has heard evidence that social workers face a number of constraints which prevent them from taking a relationship-based approach to their work in a way that would enable them to fully implement the principles of SDS. The Committee has also heard evidence that the consistently high level of complex and crisis work social workers are currently being required to undertake is leading to stress and burn-out and causing many to leave the profession, contributing to a vicious cycle which means there is less capacity in the system to support those remaining.

171. The Committee calls on the Scottish Government to provide an update on its plans to apply fair work practices to the social work profession, alongside detail of specific mechanisms it has introduced or plans to introduce to listen to and support social work staff. Given the significant challenges around retention of social workers, the Committee believes the Scottish Government should consider the application of fair work practices to social work as a high priority and calls on the Scottish Government to set out a plan and associated timetable for achieving this.

172. The Committee believes that commissioning and strategic planning processes need to ensure that social workers are consistently able to arrange care in accordance with people's choices under the Act. The Committee further calls on the Scottish Government to set out more broadly what it plans to do to improve commissioning, funding and fair work for social work staff to ensure this can happen.

Consistency

173. During Phase 1 of the Committee's scrutiny, participants in the engagement workstreams highlighted the need for improved consistency as a top priority and made multiple recommendations in favour of an overarching framework and standards to support effective implementation of the legislation and to demonstrate good practice. This part of the report explains what stakeholders told the Committee they meant when they spoke about improving consistency.

174. While it is widely acknowledged that a policy such as SDS cannot be standardised across Scotland, given the principles of personalisation and empowerment that underpin the policy and the legislation, many stakeholders nonetheless emphasised the importance of ensuring some level of national consistency in implementation. Stakeholders thought that unnecessary variation has led to disparities in what people are able to access and the support they receive, resulting in a lack of fairness.

175. Throughout both phases of this scrutiny, stakeholders have told the Committee that, geographically, variation exists in the implementation of SDS both across and within HSCP areas (this will be discussed in more detail later in this report), but also between different care groups and communities. Dr Jane Kellock summarised this variation as follows:

> We tended to see self-directed support being implemented reasonably well for adults with physical disabilities and sometimes reasonably well for children with disabilities and people with learning disabilities. However, there are lots of populations that, in general, do not get good access to self-directed support. That includes people with mental health problems, people with social care needs that are perhaps outwith the regular populations that you would think of—homeless people, say, or people who have substance use issues—and the older population. There tends to be a more transactional service delivery to the older population and those with dementia. There are a lot of populations that do not have access [14] .

176. Engagement workstreams, as part of Phase 1, made a number of recommendations in favour of improved consistency in implementation that would still allow scope for necessary local variation according to individual circumstances.

177. During Phase 2, the Committee considered some of the areas where improvements in consistency could be made. In particular, the Committee focused on:

   - National consistency, including information advice and support, funding and eligibility criteria
   - Local authority processes, implementation and guidance
   - Commissioning and tendering

National consistency

Information, advice and support

178. Responses to the Committee's call for views during Phase 1 highlighted a lack of clarity and knowledge for individuals and the general public around what SDS is, as well as a lack of available support and guidance to help navigate the process. Stakeholders told the Committee that many people continue to believe that social care is free to all at the point of need, as NHS services are. Participants in the Phase 1 engagement workstreams felt that a number of aspects of information, advice and support could be streamlined, such as:

   - Public information, and transparency, at a national level for individuals about what individuals should expect from SDS.
   - Consistent access to independent advocacy across all local authorities, including additional help with legal and administrative duties when taking on employer responsibilities for staff under Option 1.

179. The first outcome area of the Scottish Government's improvement plan is focused on delivering the "supported person and carer’s choice over their support, where success means access to information, advice and advocacy, access to quality support, and control and involvement for supported people over how it is delivered [9] ". This outcome is underpinned by the following improvement activities [9] :

Improvement plan activities
1.1 Access to SDS support, brokerage, advice, advocacy and tools1.1.1 Continue to fund independent support and advice through Support in the Right Direction funding.1.1.2 Provision of access to SDS advice, independent advocacy, brokerage and preventative support.1.1.3 Continue to build capacity of supported people and Independent Support Organisations (ISOs).1.1.4 Brokerage: continue to deliver the SQA Award for Brokerage, develop a National Brokerage Framework for Scotland. support practitioner understanding and knowledge of community brokerage and develop the Approved Brokers Community of Practice.
1.2 Improving the availability and flexibility of SDS Options1.2.1 Work to address key barriers to use of SDS Option 2 in Adults' and Children's services.1.2.2 Support provider engagement with Option 2.1.2.3 Develop and roll-out of tools and contractual models for Option 2 to increase workforce confidence and efficiency in offering it.1.2.4 Work to increase flexibility in the provision of in-house and commissioned services when delivering Option 3
1.3 Increase public information about SDS and improve its reach1.3.1 Promote SDS using agreed common language reflecting good practice, including through information sessions.1.3.2 Ensure SDS communications are in accessible formats. This includes communication about support planning and the promotion and signposting of appropriate tools and language services.
1.4 Support Personal Assistant employers1.4.1 Maintain and develop the Personal Assistant Employer Handbook and related Personal Assistant Employer resources

180. During her evidence to the Committee, Pauline Lunn, from In Control Scotland, described how a lack of public awareness or knowledge of SDS relates to social care provision:

> At the very beginning of somebody's journey, when they stick up their hand and say, "I need some help," the information on self-directed support that they are presented with sits separately on a local authority's website to the rest of social care, so we have already othered it as something different and more complicated [...] From the very beginning there are issues around the shared understanding and definitions of what self-directed support is and could be [14] .

181. Pauline explained how the different language used in three different local authority areas could cause further confusion:

> In our learning, particularly the bits of research that we have done recently on options 2 and 3, there are differences in the language that is used to describe the options, which can be problematic— the differences can be subtle but powerful. I will give examples from our research on how option 3 was described by three local authorities. You can "choose" to let the local authority arrange support, "ask" for support to be arranged on your behalf or "wish" for support to be arranged by the local authority. Those three words are quite different, so there is the opportunity for inconsistency from the very beginning. I can wish to win the lottery, which does not mean that I will, but me actively choosing that is a different strength of word [14] .

182. During Phase 2, the Committee heard from HSCPs about how they provide information and support to individuals. Diane Fraser, from North Lanarkshire HSCP, told the Committee:

> The key is improving access, so we have taken things back to basics by looking at our enabling approach and at how we can identify early help, support and information [13] .

Diane referred to a community hub model, which is a collaborative model involving all sectors and services and including welfare advice and housing as an example.

183. Other HSCP witnesses spoke of work they were undertaking to provide improved

support and information, either with external organisations or within their HSCP. As part of a self-advocacy approach, David Williams described a stakeholder participation group on mental health that has previously worked well in Tayside, and which he intends to establish in Clackmannanshire and Stirling. Stephen Morgan talked about a single access point for health and social care that has been set up in Dumfries and Galloway:

> If someone needs an assessment for social care, or by an allied health professional, they come to a single access point. It is about community and systems knowledge so that, if someone sees an occupational therapist, physiotherapist or general practitioner, that professional will know the system and point the person in the right direction [13] .

184. In relation to information and support provided by local authorities, the Minister for Social Care, Mental Wellbeing and Sport told the Committee:

> The Government encourages all local authorities to approach SDS in the same way so that people understand their options and are offered the full range of choices through SDS. I am aware that the support that is available is inconsistent across the country [16] .

185. A national organisation that supports the use of SDS responded to the Committee's call for views by emphasising the importance of local independent support organisations in SDS implementation. However, other responses indicated that many people do not or cannot access such independent support and find that there is little information or comprehensive support available from some local authorities/ social work teams [11] . One of the Phase 1 engagement workstreams recommended that "the Committee should focus on the involvement of independent advocacy during the assessment process because this may make the process more understandable, transparent and any complaints process more robust [3] ."

186. During evidence at Phase 2, the Committee heard from Inspiring Scotland, an organisation funded by the Scottish Government to implement the Support in the Right Direction (SiRD) programme under Implementation Plan activities 1.1. Inspiring Scotland, in turn, issues funding to organisations which deliver independent support to people and carers accessing social care, with the aim of supporting them to exercise choice and control over that care. Kaylie Allan described the main purpose of the programme as follows:

> Our role is to collect information about what people are doing in relation to advocacy, brokerage and providing support around option 1 and what being a PA employer means [14] .

She went on to provide further information about the programme:

> The programme involves providing people with information about what the [SDS] process actually means. We gather information on whether people are feeling more confident to manage their budgets, whether they feel that they have had a choice and have some control over their social care plan and on what support they need to put that in place [...] Our real drive is to raise awareness of the importance of independent support, which is needed for people to be able to access social care, and to gather as much learning as possible to feed that back into the plan [14] .

187. The Minister for Social Care, Mental Wellbeing and Sport told the Committee that the Scottish Government has committed £9.2 million to the SiRD programme for the next three years, funding 33 organisations across the country, and that this covers all 32 local authority areas. The Minister added:

> That is one really significant piece of work that is being done in order to ensure that people have the right information, options and support in order to make the right decisions [16] .

188. **During this scrutiny, the Committee has heard that there is a lack of national consistency in relation to information, advice and support to ensure fair and equitable access to social care through SDS. The Committee recommends that the Scottish Government issues further guidance to all HSCPs to ensure there is a significantly improved level of consistency in communication of information, definitions and use of language to describe SDS.**

189. **The Committee's scrutiny has revealed a lack of public awareness about what social care, and SDS, is and how it works. The Committee agrees with stakeholders that there should be an online one-stop resource for people who may need to access support with SDS and calls on the Scottish Government to establish such a service, accompanied by regular campaigns to promote it. This would be a huge benefit to people who require social care support and want to understand more about SDS.**

Funding

190. Participants in the 'Individuals with experiences of SDS' Phase 1 engagement workstream expressed concerns around national budgets for social care and how local authorities use their care budgets. The workstream recommended that "the Committee should also seek to clarify what approach to national, local and individual budgeting will be taken through the proposed national care service. [3] "

191. The delivery and improvement of SDS across Scotland is funded primarily through the budgets of local authorities, which have statutory responsibility for the delivery of SDS. The budget for social care support and National Care Service delivery has been increased by 29.1% for the current financial year, from £701,320 million to £905,288 million. According to the Scottish Government budget documents, this is intended to pay for:

> [The] Package of support for Social Care for which the majority of funding is transferred to the Local Government settlement for investment in social care and integration. For 2024-25, this budget includes further investment in increasing capacity and sustainability of social care services, investment into the National Care Service, Fair Work for Adult Social Care workforce and short breaks fund for unpaid carers. Also includes Self Directed Support Programme to support focus on reform and improvements in Adult Social Care [...] it includes funding for the full year impact of the pay uplift for adult social care staff to £12 per hour and additional investment in Free Personal and Nursing Care [18] .

192.Additional Scottish Government funding for SDS improvement is in place to support the implementation of the improvement plan. The table below, provided by the Minister for Social Care, Mental Wellbeing and Sport in her letter to the Committee on 13 December 2023, shows the additional money made available to support the improvement plan work for the first year of the plan [19] .

Additional funding for implementation of SDS

Funding for organisations to deliver activities under the Improvement Plan

Grantee	2023/24 Funding	Improvement Plan Outcome Themes
Local Authority Transformational Funding	£3,696,000	All
Support in the Right Direction Programme	£3,064,855	1
SDS Scotland – Main Grant	£169,000	4
SDS Scotland – National Brokerage Framework	£66,680	1
In Control	£175,000	1, 3
Social Work Scotland	£240,000	2, 4
The ALLIANCE	£50,000	1
Totals	**£7,461,535**	

Source: Scottish GovernmentScottish Government, 2023[19]

The Scottish Government informed the Committee that the funding for Support in the Right Direction Programme (SiRD), and associated work, equates to £3.3m per year over the next three years. It indicates that this corresponds to an investment of up to £100,000 in every local authority area across Scotland each year. This is intended for the provision of advocacy and information, rather than improving the quality of care per se. The Scottish Government points out that the £3,696 million Transformational Funding represents £115,500 for each local authority area. It should also be noted that funding for the ALLIANCE was not continued for 2024-25 [19] .

193. Dr Kellock argued that there was a lack of funding to support the improvement plan for SDS:

> I also note that it is not particularly well funded. We are working within an envelope of the funding that is available and not the funding that we think is necessary in order to really make it happen. I think that all the organisations that are represented on the panel are working with less available grant funding than we had in previous years [14] .

194. Following its meeting on 4 June 2024, where the Committee heard evidence from representatives of organisations currently in receipt of funding to deliver on the improvement plan outcomes, the Committee wrote to these organisations asking additional questions about funding commitments. Social Work Scotland [15] and Self-Directed Support Scotland [20] both indicated that funding is committed on an annual basis, with both arguing that this puts programmes in a precarious position, impacts on the efficacy of their work, and negatively affects the staff they employ. Inspiring Scotland noted that it has a commitment of funding for the SiRD programme for the lifetime of the improvement plan but that this was still subject to review as part of the annual Scottish Budget process [21] .

195. Asked what further work organisations would like to undertake if more resource was available, Inspiring Scotland responded:

> SiRD is funded for three years to March 2027 which is welcomed. However, there is much more support required for people and more that the programme could do [...] We know that SiRD is at maximum capacity due to resource constraints, at a time when demand for independent support is increasing. Waiting lists for support have recently been introduced. In addition, we know there are gaps in SiRD delivery for more marginalised user groups and that SiRD organisations are only reaching a fraction of those who might need or would benefit from their support [21] .

196. Social Work Scotland expressed a view that "there is chronic underfunding at all levels of the system" and set out a list of actions and additional resources it feels are required, grouped under the following headings [15] :

- Intermediary support for local system change - "We are working within a tight grant award and could work at a better pace with additional project officers and workstream activity budget."
- Local delivery level - "In general, SDS and social care is not well resourced at the delivery level. The original financial memorandum assumed that the legislation would be cost neutral which was incorrect."
- Local system change - "At a local authority level, transformational funding awarded to each local authority supports an SDS implementation lead. These officers are usually at a middle or frontline management status, and often sits outwith mainstream social work within the Health and Social Care Partnership development function. This means that they don’t always have the influence and status that they need to make an impact."

197. In its written submission, Self-Directed Support Scotland advised that it has advocated for the following specific pieces of work that have not been granted resource to take forward [20] :

> - A freephone Self-directed Support helpline, which arose as a recommendation from the My Support My Choice research we carried out in partnership with the ALLIANCE in 2020-21. Currently there is no single point of contact for individuals who need information about Selfdirected Support, and a free helpline would not only meet Outcome 1 of the SDS Improvement Plan [...] but would also be a rich source of data and evidence on SDS implementation across Scotland, guiding the focus of future improvement work.
> - A programme of work to support PA Employers, giving parity with the work of the Personal Assistant Programme Board.
> - Investment in Centres for Inclusive Living and Disabled People's Organisations, with a particular focus on supporting individuals who wish to direct their own support via Option 1.

The response additionally noted that, with additional resource, the organisation would also like to "expand our existing work to increase access to SDS for under-represented groups. [20] "

198. In terms of funding for social care more generally, representatives from HSCPs all indicated that their budgets for social care were under severe pressure, with gaps in funding of between £5 million and £10 million across the four areas represented. They reported that, although there was a level of unmet need, funding for those assessed as needing care and support had not been cut [13] .

199. Throughout its scrutiny of the National Care Service (Scotland) Bill to date, the Committee has heard evidence of the pressures across the social care system, and challenges around retention and recruitment, linked to low pay and poor terms and conditions. Cost pressures on providers were also found to be an issue, in turn linked to commissioning practices and procurement and audit processes. Many stakeholders also argued that resource would be better directed towards supporting core service delivery and support for the current infrastructure of social care, rather than redirecting this towards establishing new national and local governance structures which wouldn't, in and of themselves, improve the ability or capacity of authorities to improve delivery of SDS.

200. During her evidence to the Committee, the Minister for Social Care, Mental Wellbeing and Sport acknowledged challenges related both to social care funding in general and more specifically to funding to deliver improvements in SDS implementation. The Minister went on to set out current Scottish Government plans to tackle these challenges:

> We committed to increasing the funding of social care by a quarter during this session of Parliament. We have delivered that two years ahead of schedule, but we are often not feeling that at the coalface. We need the national care service to provide some grip and assurance in relation to following the money and making sure that the money is getting where we need it to be [...] We are not where we want to be, but, as a Government, we have set out our stall and are making incremental improvements in social care that will help us to solve the big-picture problems [16] .

201. The Scottish Government has identified a number of key priorities and activities, as part of its Improvement Plan, which it states will move "social care and support further towards delivering fully on the SDS principles". However, the Committee has heard concerning evidence that the Improvement Plan is currently significantly underfunded and, if unaddressed, believes this will continue to hinder the full implementation of SDS.

202. The Committee has also heard significant evidence on wider funding constraints and considerations and underfunding in the social care system, and recognises the Minister's commitment to increase social care funding. However, it believes that until additional resourcing of the Improvement Plan is secured, the ambition to fully implement SDS, as the delivery mechanism for all social care in Scotland, will remain nothing more than an aspiration.

203. From the evidence it has heard, the Committee also has concerns that the allocation of funding within the Improvement Plan may not be optimal to achieve full implementation of SDS. While independent advocacy and the provision of information are important, this appears to be the primary focus of funding, whereas, for SDS to work as intended by the legislation, greater priority should be accorded to improving the underlying fundamentals (improving the sector, addressing issues around workforce recruitment and retention, fair work and staff training, enhancing consistency in various areas, and reviewing and improving local authority processes and implementation). With this in mind, the Committee calls on the Scottish Government to ensure resourcing of the relevant activities in the Improvement Plan is suitably prioritised.

Eligibility criteria and the Options

204. Scotland has national eligibility criteria for social care. The national framework guidance originally issued in 2009 defines four categories – Critical, Substantial, Moderate, and Low Risk. These categories were initially developed to assess older people for eligibility for free personal and nursing care. They were extended to all adults in 2019, in accordance with the extension of free personal care to all adults.

205. The Social Work (Scotland) Act 1968 describes the assessment of need for social care as a two-stage process. The first stage is an assessment of need. At the second stage, the local authority uses a range of eligibility criteria to determine whether the outcome of that assessment calls for services to be provided to the individual being assessed. While there is a national framework, local authorities set their own local eligibility criteria. According to the Scottish Government:

> In setting such criteria, local authorities will consider a range of factors including the overall level of resources available to meet need, the cost of service provision and ensuring equity in their service decisions. Eligibility criteria are a method for deploying limited resources in a way that ensures that those resources are targeted to those in greatest need, while also recognising the types of low level intervention that can be made to halt the deterioration of people in less urgent need of services. As such, there may be variation in the levels of service and delivery of services across local authorities [22] .

206. During Phase 1, stakeholders told the Committee that changes to eligibility criteria and funding since the SDS Act was introduced have resulted in reduced flexibility and increased restrictions in the delivery of social care. Many stakeholders expressed the view that eligibility criteria are defined with the primary objective of enabling providers to assess risk, rather than to achieve positive outcomes for individuals with the result that care and support tends only to be provided in cases where someone is at ‘substantial’ or ‘critical’ risk of harm if they don't receive it.

207. Phase 1 engagement workstreams made the following recommendations in relation to where they thought the Committee should focus its scrutiny [3] :

- The Committee should focus on the eligibility criteria and the assessment process because at the moment it is inconsistent across and within local authority areas and too time consuming. The use of eligibility criteria prevents many people from having their care and support needs met and can result in people ending up in crisis situations.

- The Committee should focus on a more consistent and transparent approach to referrals, the application process, assessment, allocation of resources, eligibility criteria processes and decision making to ensure an equity of provision that doesn’t create a barrier to accessing and receiving support.

208. During Phase 1, the Committee heard evidence that eligibility criteria for SDS are being progressively tightened due to budgetary constraints, and that this could compromise the delivery of preventative support, preventing people from effectively managing their own conditions and contradicting the principles of SDS. Witnesses during Phase 2 were also critical of current eligibility criteria. Pauline Lunn argued that current pressures mean that eligibility criteria for support are tightening and that this is impacting negatively on people's care:

> We know that the availability of services is incredibly limited, the pressures that local authorities and support providers are under is intense and eligibility criteria are higher than ever before, which results in people sometimes not having the support that they would choose [14] .

Stephen Morgan also told the Committee:

> The national eligibility criteria are archaic and out of date, and constitute a deficit model, which is the absolute opposite of what we all want to achieve through the Social Care (Self-directed Support) (Scotland) Act 2013 [13] .

209. Dr Kellock argued that current eligibility criteria shift the emphasis towards a care management model, rather than a relationship-based model which would prioritise choice and control:

> when people’s needs are critical, things such as eligibility criteria force practice down to a level where there is no meaningful choice to be had [14] .

210. The SDS Act sets out four Options, intended to help people navigate the level of choice and control they want to have in the organisation of their care and support.

211. During a private briefing to the Committee on 14 November 2023 as part of Phase 1, stakeholders raised concerns that the four SDS Options were not consistently

made available to individuals. One participant described experiences of individuals being directed towards choosing Option 1 (the individual or carer chooses and arranges the support and manages the budget as a direct payment), only to find that there were no suitable services available. Another described an experience of individuals being directed towards Option 3 (the authority chooses and arranges the support), without any opportunity to discuss or consider the potential availability of the other three Options [2] .

212. The Committee has scrutinised monitoring and evaluation of the Act and this is discussed in more detail later in this report. However, it is relevant here to note that monitoring of implementation of the Act has, to date, largely been determined by collating data on which Options people were choosing. Pauline Lunn told the Committee that knowing which people were assigned to which Option in the data wasn't necessarily a good indicator of whether SDS was working as intended:

> There is a danger in assuming that the data that we see on the options that people are using reflects the options that people have chosen. They are not always the same thing… The fact that we have that data does not necessarily mean that there have been active choices…We learned that there is still some misunderstanding, even in local authorities, of the fact that option 3 is still self-directed support and people who have chosen that option should still have flexibility and freedom to have a little bit of choice and control in what their support looks like [14] .

213. Donald Macleod highlighted particular challenges with delivering SDS Option 1, whereby the individual or carer chooses and arranges the support and manages the budget as a direct payment:

> [...] there is a lack of availability of all four SDS options across the board in some areas, particularly rural areas. That is creating pressure points in the system, which is overloading another part of the system [...] It is creating pressure currently, particularly when it comes to option 1 [...] We are working with Social Work Scotland on a national direct payment agreement. One of the inconsistencies across the local authorities is that there are 32 different ways of applying a national direct payment agreement [14] .

214. In terms of monitoring and evaluating the success of SDS, Des McCart pointed out significant shortcomings in current practice:

> What is the quality of option 1, for example? Is there a choice, or is an option chosen because it is the only thing that is available in an area because of—excuse the language—market availability? What choices are available? [17]

215. Rachael McGruer, a Scottish Government official accompanying the Minister, acknowledged challenges with eligibility criteria and set out how the Scottish Government is planning to address these:

> We heard from the Feeley review that there were challenges with eligibility criteria, which were sometimes seen as a barrier to accessing self-directed support, and people's choices were considered. Under a joint statement of intent, we are working with COSLA to review eligibility criteria as part of the national care service programme of reforms [16] .

216. In October 2023, the Scottish Government published statistics on social care: eligibility criteria and waiting times Scotland 2022-2023 which included the following related information:

> As part of the Joint Statement of Intent and the development of the National Care Service (NCS), Scottish Government and COSLA have committed to the "overhaul of the current mechanism of eligibility criteria to ensure an approach to adult social care that is based on human rights and needs". This will mean significantly changing the way care and support services are designed, so that prevention and early intervention is prioritised and people can move easily between different types of care and support as their needs change [22] .

217. During her evidence, the Minister for Social Care, Mental Wellbeing and Sport acknowledged concerns around the availability of different Options under SDS :

> People think that option 1 is SDS, and that concerns me, because it suggests that people who are trying to access social care at the coalface are not being talked through the whole suite of options that are available to them, and that option 1 is being used as the default setting. That is a real challenge that we recognise [16] .

218. Joanne Finlay, a Scottish Government official accompanying the Minister, explained what the Scottish Government is doing to get a clearer picture of how effectively SDS is being implemented through its health and care experience survey:

> This year, we added five questions to try to find out a little more information about whether people were offered their choice and whether they got their preference. If they were not offered a choice, we wanted to know whether they did not want a choice or did not know that they had a choice. Basically, we were trying to work out a little more about how people experienced SDS and whether they were offered different options within it. That data was published just last month, and we can start to use it as a baseline to see how the situation changes over the next few years [16] .

219. The Committee has heard extensive evidence that changing eligibility criteria as a result of budgetary constraints and funding restrictions is preventing HSCPs from effectively meeting people’s care and support needs under SDS.

220. The Committee has concluded that the current eligibility criteria are not working and, as currently applied, contradict the aims and principles of SDS. To address this issue, the Committee believes that the model of social work needs to change from the current model of care management to a model of relationship-based practice and that individualised, means-tested assessments that use eligibility criteria need to be replaced with community-based services that are properly responsive to individuals' choices and preferences.

221. The Committee recognises that the Scottish Government is working with COSLA to review eligibility criteria as part of the National Care Service programme of reforms. The Committee asks the Scottish Government to provide an update on this work, including setting out the detail of discussions and related decision-making, alongside timescales for action.

Local authority implementation

222. In 2017, Audit Scotland's progress report on SDS stated that, while there was evidence of many examples of positive progress in implementing SDS, there was "no evidence that authorities have yet made the transformation required to fully implement the SDS strategy" [23] .

223. As a sample cross-section of all HSCPs in Scotland, the Committee took evidence from four HSCPs at its meeting on 11 June 2024. The Committee heard that there has been variable progress in implementing SDS across these four areas.

224. David Williams, representing Clackmannanshire and Stirling, advised the Committee that the HSCP is in the process of developing a self-directed support policy for approval by the local IJB. This is intended to set out a "once for Clackmannanshire and Stirling approach [13] " to the delivery of services and will require both local authorities to support their staff to achieve full implementation of the SDS legislation. By way of context, David told the Committee:

> It sounds like that is happening a long time after the legislation was implemented and a long time after health and social care integration was put in place, but we have some unique circumstances in Clackmannanshire and Stirling. Ours is the only partnership in the country in which two councils have agreed to have a single integration authority. However, the consequence that has been played out over the past eight years is that no singular approach is being taken across Clackmannanshire and Stirling that meets the needs of people with adult health and social care needs. There have been—shall we say?—differing approaches to the implementation of a number of things, not least of which is the self-directed support input [13] .

225. Stephen Morgan, representing Dumfries and Galloway, told the Committee that social work and social care were integrated with almost all health services when the IJB was set up and that, at that point, policies for SDS were developed in line with the 2013 Act. However, he went on to say that he thought these policies now need to be reviewed:

> [...] they have not really been properly reviewed since implementation, for various reasons [...] We are aware that our policies and some of our practices need to be reviewed and updated. We are currently looking at the new regulations and seeing how they best fit across the region [13] .

226. Diane Fraser, representing North Lanarkshire, advised the Committee that North Lanarkshire has been developing SDS policies and procedures since 2010, prior to the legislation coming into force and, as a result, SDS is well established. Diane added:

> We have a 10-year framework that was launched in 2021, which allows for more flexibility for those using self-directed support or choosing to have paid care. We have spent a significant amount of time developing that framework, primarily focusing on adults and children. In 2021, we launched a framework that covered all individuals. We have been in a process of shifting from what was traditionally known as a time and task model to annual budgets for individuals. That has all been underpinned by significant engagement and participation [13] .

227. David Aitken, representing East Dunbartonshire, told the Committee that his area was similar to North Lanarkshire in that it has had an SDS implementation plan in place since 2012. He added:

> The most recent iteration is a three-year implementation plan for 2024-2027. We have developed and sought to apply our asset-based support planning across all services, and SDS is very much established as the framework that sits behind the delivery of all our children's and adult services [13] .

228. Phase 1 of the Committee's scrutiny highlighted inconsistencies in SDS implementation between, and within, local authorities. During engagement workstreams, stakeholders told the Committee that, in some cases, they thought local authority processes could work against the principles of SDS. They recommended that the Committee should scrutinise processes and systems at the local authority level, including the following [3] :

- How effective local authorities are at providing timely and relevant information on SDS;
- How local authorities use care budgets;
- The processes around decision-making for individual budgets, where responsibility ultimately lies, and how consultation between individuals and staff in different departments is managed;
- To what extent complaints systems are accessible and can provide meaningful redress if local authorities and HSCPs fail to meet their statutory SDS obligations; furthermore, how resulting complaints decisions then inform the SDS process.

229. Information, advice and support has already been considered earlier in this report. However, Pauline Lunn specifically highlighted inconsistencies in use of language across different local authority areas and how that can cause confusion and additional complexity for individuals seeking support:

> In our learning, particularly the bits of research that we have done recently on options 2 and 3, there are differences in the language that is used to describe the options, which can be problematic— the differences can be subtle but powerful. I will give examples from our research on how option 3 was described by three local authorities. You can “choose” to let the local authority arrange support, “ask” for support to be arranged on your behalf or “wish” for support to be arranged by the local authority. Those three words are quite different, so there is the opportunity for inconsistency from the very beginning. I can wish to win the lottery, which does not mean that I will, but me actively choosing that is a different strength of word. From the very beginning there are issues around the shared understanding and definitions of what self-directed support is and could be [14] .

230. The Committee considered some of the areas where improvements to local authority implementation of SDS could be made. In particular, the Committee focused on:

- Processes, including assessment, complaints and finance and budgets
- Leadership and culture

Processes - assessment

231. Participants in the 'individuals with experiences of self-directed support' engagement workstream told the Committee that it should focus its scrutiny on establishing a consistent approach to the assessment process. This was highlighted as a specific area of concern when individuals seeking social care and support move from one part of the country to another. Stephen Morgan outlined the process that local authorities should follow in such circumstances:

> If someone who has had a social work assessment under the 2013 act and receives a package of care moves to another local authority area, there is a period of 12 weeks in which the new authority will continue to deliver those services. The situation will be very different depending on whether option 1, 2 or 3 was chosen, so we would work together in anticipation of what the package might look like. After that 12- week period, the original host authority’s responsibilities lapse and are handed over. However, if someone with option 2 moves from elsewhere, a new assessment is carried out, because they are starting over [13] .

232. David Williams went on to suggest that differing processes across local authority areas can present challenges:

> An aspect is recognising the difference of approaches and the different support systems that are available in and across 32 different local authority areas. That relates to the issue of variability in delivery and in experience, so we have to acknowledge that, as well as the portability of individual budgets. That goes back to my earlier comment on accounting and how that works in practice [13] .

233. Participants in the 'frontline social workers' workstream thought that processes should be consistent enough to allow for movement from one area to another without the individual experiencing a change in the level of care and support they

receive. Other workstreams were in agreement, and some specifically highlighted that re-assessment can be time-consuming and bureaucratic. All workstreams identified issues around differing eligibility criteria, practice models, and assessment and budgeting processes [3] . During his evidence at Phase 2, David Aitken told the Committee that simply porting care from one authority to another was not optimal in terms of ensuring an individual's outcomes are met:

> I just want to highlight that people’s needs change. We must ensure that we are promoting to people that they should live as independently as they possibly can. Their needs are not static. Therefore, when someone moves to another area, that can represent not just a challenge for the individual— we have recognised some of the structural impositions in that regard—but an opportunity to restart, re-evaluate and really begin to reassess what is important to them and what they now need. I would frame the matter in a slightly different way, in that a move represents another opportunity to look at needs. As I said, people’s needs are not static—they change over time— is important that we reflect and provide the opportunity to consider them again when somebody moves [13] .

234. The Committee has heard evidence of significant variability in implementation of SDS between different HSCPs. While some areas have been developing SDS policies and procedures based on the original SDS strategy that pre-dates the Act, others do not have such policies and procedures in place over a decade after the legislation was introduced. This means that the experience of accessing social care can be very uneven. Although recognising that a move to a different area presents an opportunity to reassess someone's needs and outcomes in a new context and environment, the Committee has concluded that the process of transition needs to be transparent, timely and fully supported by both authorities to ensure that a person's autonomy is preserved and respected in any changes to support. The Committee therefore calls on COSLA and Health and Social Care Scotland to set out what it is doing, or plans to do in future, to minimise such variability and to smooth transitions for those individuals moving from one HSCP area to another.

235. The Committee is equally concerned by stakeholder reports that some local authority processes are seen to work against the principles of SDS. As part of ongoing work on the improvement plan, the Committee therefore calls on COSLA and Health and Social Care Scotland, as a matter of priority, to undertake an evaluation of all HSCPs to ensure local processes are universally consistent with SDS principles.

236. Following this evaluation, the Committee further calls on COSLA and Health and Social Care Scotland to systematically identify areas of best practice and ensure there are opportunities to share these across all HSCPs (including related opportunities for additional training, improved processes and mentoring). The Committee calls on the Scottish Government to set out how it will ensure national oversight of this process.

Processes - complaints

237. During the Committee's Stage 1 consideration of the National Care Service (Scotland) Bill, the Committee heard that complaints regarding local authority social care services are currently managed at a local authority level, following a model complaints handling procedure developed by the Scottish Public Services Ombudsman (SPSO). The procedure is intended to ensure a consistent approach to complaint management across all local authorities.

238. The SPSO is also the final destination for complaints about public service organisations in Scotland. It deals with complaints about care, service failure or treatment from individuals, in the event that a person has previously made a complaint about a public service through the relevant public body but is unhappy with the outcome or resolution offered. The Ombudsman then investigates how the complaint was dealt with. This process is meant to encourage public bodies to learn from complaints and to feed any related findings into a continuous improvement programme.

239. Phase 1 stakeholders raised concerns with the complaints process in relation to SDS. During a private meeting with stakeholders on 14 November, participants raised concerns about the existence of what they termed a 'circular complaints system' within local authorities, whereby individuals were effectively denied the means to complain about decisions affecting them because the same department receiving the complaint was also responsible for investigating that complaint [11] . Workstream participants also described scenarios where complaints were upheld but that no connection was subsequently made with the SDS package they were receiving and no changes were made as a result [3] .

240. During Phase 2, Donald Macleod told the Committee that, in his view, the complaints procedure fails to empower individuals to challenge decisions on SDS:

> There are no effective legal mechanisms for individuals who are seeking social care support to be able to challenge decisions. That is generally done through the local authority complaints process, which is opaque and quite general [14] .

241. David Aitken spoke about the complaints process in East Dunbartonshire and explained that the process can be different in different areas:

> In our individual HSCP and local authority areas, we will have our own processes for managing and looking at established complaint arrangements [...] The SDS lead directly reviews all the complaints that come in that have any focus on the provision of support packages or that have any link to self-directed support, and they review each separately to the main complaint response lead. We have established an additional process with our SDS lead to give a two-layered approach to any complaint that we receive on our SDS delivery [13] .

242. David Williams and David Aitken both told the Committee that there are mechanisms to address issues of variability in relation to the implementation of self-directed support and that these mechanisms relate in particular to eligibility criteria, the transfer of cases and learning from complaints. They indicated that such matters were addressed at meetings of the chief social work officers' group and the SDS practice network for all SDS leads in Scotland.

243. The policy memorandum which accompanied the National Care Service (Scotland) Bill states that sections 14 and 15 of the Bill as introduced aim to strengthen complaints and redress systems for the NCS and wider social care services. Section 14 provides for a single point of access for any complaints about NCS services and Section 15 enables Scottish Ministers to establish a comprehensive complaints process via secondary legislation.

244. The Committee has heard that people accessing social care feel they are unable to challenge decisions about their social care provision, especially where the care they receive may not correspond to what was discussed as part of the assessment process.

245. The Committee is of the view that, to ensure proper implementation of SDS in accordance with its principles, there needs to be a formal complaints process for social care that is consistent across all HSCPs. This should form part of an iterative process, where decisions around complaints then feed back into the care review system, following a continuous improvement model.

246. In this context, the Committee refers the Scottish Government to the recommendations it has made on the subject of complaints as part of its Stage 1 report on the National Care Service (Scotland) Bill.

247. The Committee further concludes that, to be effective, any such complaints process needs to be clear, transparent and properly publicised so that individuals are able to make effective use of it and requisite lessons are learned to ensure progressively improved implementation of SDS over the long term.

Processes - finance and budget

248. During Phase 1, stakeholders highlighted issues around local authority budgetary processes in relation to SDS. Several respondents to the Committee's call for views thought that funding provided to local authorities should be ringfenced so that it can only be spent on SDS delivery. One individual stated:

> The money given to local governments should be ring fenced. It is used for other things and supported people have to go without [11] .

249. During a private meeting on 14 November 2023 and a subsequent Committee meeting involving representatives of the engagement groups on 20 February 2024, the issue of budgets was discussed. During these meetings, stakeholders expressed fears that some local authorities may be re-directing relevant budgets away from supporting the implementation of SDS towards other activities. They pointed to areas of the country where it was clear there had been investment in implementing SDS and contrasted this with other areas where such investment was apparently lacking [2] .

250. During a private meeting on 14 November 2023, stakeholders also raised concerns that, within local authorities, financial and budgetary decisions are taken entirely separately from those responsible for commissioning, managing and procuring care and support services. This was said to happen, not only at a council level, but also

at the point when an individual's care and support is assessed. One participant described an experience of having collaborative outcomes-focused care plans agreed between social work staff and individuals only to have these subsequently refused during financial and legal processing [2] . Stephen Morgan and David Williams described similar experiences during their Phase 2 evidence. Stephen Morgan told the Committee:

> We recently had an audit of direct payments, which in itself is telling because it was based on the old direct payments legislation. It was a finance-based audit and it was very punitive. While there was innovation around somebody receiving a massage for mental wellbeing and mental health, that was criticised from an audit perspective for not being about providing care, but, in relation to self-directed support, it absolutely is [13] .

251. David Williams told the Committee:

> There is also an issue with accounting rules [...] that approach to the process does not accord with the notion of somebody having an individual budget within which things like dog-grooming lessons can be purchased as part of enabling that person to have a life that they want and choose [13] .

He went on to argue that this was not solely in the hands of local authorities to remedy:

> Beyond our social work staff, in our respective systems, we need to think about how we are supported and enabled by the governing bodies. They may argue, "Well, these are the accounting rules that are set by other bodies beyond, and we have to be accountable to the public purse" and so on, but there is a whole system at play, some of which makes it really difficult [13] .

252. Throughout this post-legislative scrutiny, stakeholders have made arguments in support of pooling and annualising budgets to allow for more flexible and sometimes joint arrangements for delivery of SDS to be made. Andrea Wood, Chief Executive of social care provider, Key, spoke to the Committee during a private briefing session on 14 November 2023 as part of Phase 1. As a follow up to that session during Phase 2, she shared some anonymised good practice examples with the Committee . The following example highlights how pooled budgets can make a difference to individuals:

> F is a 25-year-old man a learning disability who lives with his family. He receives an individualised SDS budget and is supported by our short breaks team in Glasgow. Prior to receiving his budget, F was experiencing social isolation but after exploring his outcomes through pooled resources and shared support he now enjoys up to 3 short break holidays per year. This has enabled him to make connections with people of his age and visit places he would otherwise not have the opportunity to. There are positive outcomes for his family too, as the breaks provide vital opportunities to rest and recharge while enjoying the chance to do things, they otherwise would be unable to [24] .

253. Frontline social worker participants in the Phase 1 engagement workstream felt that decisions on care and support should not be constrained by finance or audit procedures. They argued that social workers need to feel empowered and skilled to

deliver an asset-led approach, whereby the budget follows the individual. They argued that the budget is just part of an asset map. They further argued that, to be delivered successfully, this approach requires investment in staff and leadership [3] .

254. The Committee's scrutiny has highlighted a lack of transparency and accountability around funding decisions related to SDS. The Committee believes that HSCPs should be funded to deliver social care in line with the Act, and the Scottish Government has a responsibility to ensure that HSCPs allocate appropriate budget in order to deliver on social care commitments. The Committee asks the Scottish Government to set out how it intends to address these issues to improve the delivery of SDS.

255. The Committee is aware of stakeholder concerns that staff involved in financial and budgetary decisions on SDS may not be fully aware of their obligations under the Act. The Committee calls on COSLA to ensure there is better collaboration between finance and accounting staff and those responsible for establishing social care and support needs, across all local authorities. This will help to ensure resulting support better reflects people's outcomes and will help enable local authorities to fully realise the principles of SDS.

256. The Committee has heard evidence that in order for SDS to be properly implemented in accordance with the legislation and the underlying principles, there needs to be greater flexibility in funding and budgetary arrangements. The Committee calls on the Scottish Government to explore how greater flexibility might be promoted, for example, by allowing for greater pooling or annualisation of budgets[v].

Leadership and culture

257. During a private meeting on 14 November as part of Phase 1, participating stakeholders argued that, to improve the effective implementation of SDS, there needs to be a fundamental shift in power, choice and control at the procedural and structural level. They further argued that those involved in leadership and management structures in all local authorities need to have a better understanding of the nature of social work, social care and SDS. Participants also cited examples where health and social care integration has led to instances where NHS colleagues apply a medical model to the management of social work which is incompatible with the principles of SDS [2] .

258. At its meeting on 11 June, representatives from four different HSCPs told the Committee that, despite the legislation being in force for over a decade, partnerships still need to "shift some of the culture" around SDS. They also argued there was a need to "link to culture and a shift in the understanding of what we are actually trying to achieve" and to make a "cultural shift in relation to the perception

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v An example of a change to an annualised budget could be where, instead of an individual's budgets being fixed at purchasing a set number of support hours a week, it is annualised to a total sum to allow for much greater flexibility on how that budget is used, in accordance with someone's outcomes.

and delivery of social work and social care". One witness suggested there were still unresolved questions about how to "make the culture change that is needed across the system" [13] . Diane Fraser, representing a partnership with reported good practice, and well-established systems in place for SDS, told the Committee:

> There is definitely a culture and leadership issue that we need to address, as well as the need for that systems knowledge [13] .

259. Outcomes 3 and 4 of the Scottish Government's improvement plan are focused on [9] :

3. systems and culture, where success means national and local SDS system and planning design is more person-centred and person-led, including through involving supported people and carers.

4. leaders understand and help staff realise SDS principles and values, where success means duty-bearers and senior staff supporting their workforce and creating the culture and conditions for supported people to have choice and control over their social care support.

260. These outcomes are underpinned by the following activities to achieve improvements [9] :

Improvement plan activities
3.1 Improved involvement of supported people in planning3.1.1 Review the involvement of supported people and carers in planning and evaluating social care support services and make improvements where identified. Including through the use of Planning with People Guidance and in line with Equal Partners in Care principles.3.1.2 Enabling flexible use of individual budgets in accordance with the supported person's choice, outcomes identified in their support plan and desired degree of control.
4.1 Supporting local authorities to ensure principles of SDS are incorporated into local planning and systems4.1.1 Support local areas to embed SDS within relevant local policies and plans reflecting SDS as the way social care support should be delivered, including access to peer support to share learning.4.1.2 Support Local Authority leaders across Scotland to innovate, embed, implement and sustain good practice to ensure that all care groups have access to SDS, incorporating good practice on self-evaluation and evidence on where challenges and opportunities exist.
4.3 Ensuring leaders are supported through access to shared good practice4.3.1 Review, refresh and promote the SDS Standards. The refresh will use the principles of Equalities Impact Assessment, Fairer Scotland Action Plan and Islands Community Impact Assessment to ensure that they cover all equality groups, care groups including informal carers, islands and diverse geographies.4.3.2 Continue to support local areas to embed the 12 Standards. Where relevant and appropriate, support local authority implementation of SDS Framework of Standards in three priority areas:4.3.2.1 Standard 3: Relationship- and strengths- and asset-based approaches across care groups and across all four SDS options.4.3.2.2 Standard 8: Worker Autonomy (particularly in assessment, support planning and determining personal budgets).4.3.2.3 Standard 12: Access to Budgets and Flexibility of Spend (including improving processes and approaches to approving personal budgets).4.3.3 Consider and develop ways in which the SDS framework of standard may be adapted and used by ISOs to build on improvement of SDS across the whole system.

261. The Minister for Social Care, Mental Wellbeing and Sport told the Committee that "the unnecessary variation, which comes from culture, systems and, in particular, risk aversion, is what we need to iron out [16] ." The Minister set out work underway to help achieve greater consistency across local authorities, stating:

> It is challenging to achieve consistency across the board. We work not only with COSLA, but directly with chief officers in each local authority area. A few years ago, we updated the statutory guidance to make it clearer how we expect the policy to be implemented and to tackle the risk-averse approach that we see being taken in some parts of the country and the organisational or cultural barriers that might undermine the flexibility, autonomy and choice that are at the core of SDS [16] .

However, the Minister also recognised that further work is required to tackle the existing culture:

> One thing with self-directed support is that, rather than it being about the operational directions and guidelines on how to do it, it is really about the ethos of it [16] .

262. During its scrutiny, the Committee has heard extensive evidence that, although the legislation has been in force for more than a decade, the existing culture, and by extension leadership, within HSCPs remains a barrier to effective implementation.

263. The Committee has concluded that the current underlying system of social care delivery based on individual assessment, eligibility and transactional care contracts is incompatible with the principles of SDS and that this makes it difficult, if not impossible, for leadership at a local level to cultivate the appropriate ethos and culture for the SDS principles to become a reality.

264. The Committee therefore calls on:

- COSLA and other national partners to explore how that underlying system of social care delivery needs to change in each local authority area in order to become compatible with SDS principles;
- each local authority to evaluate what actions are needed within their area to shift the culture around SDS to ensure the principles of the Act are fully realised;
- the Scottish Government to set out what it will do, as part of the proposed National Care Service, to embark on a programme of 'culture change' that enables local authorities to deliver social care consistently in accordance with SDS legislation and principles.

Commissioning and tendering

265. The Committee took considerable evidence during its Stage 1 scrutiny of the National Care Service (Scotland) Bill on ethical commissioning. The Committee heard that commissioning and procurement were a key barrier to providing better services and improved terms and conditions for social care staff [12] .

266. During Phase 1 of this scrutiny, stakeholders argued that, to be able to deliver on

and realise the spirit of SDS, a shift away from transactional commissioning and time and task approaches to care delivery is needed. Stakeholders also advocated a shift away from competitive tendering and restrictive procurement processes which they argued are ill suited to the intentions underpinning SDS [2] .

267. Instead, stakeholders suggested that facilitating ethical commissioning, developing collaborative commissioning models and fostering a marketplace of providers would contribute to better outcomes for people, rooted in the principles of choice and control that was the original intention behind the SDS legislation. Participants further argued that a model based on giving people set hours of social care, as is currently widely used in determining social care provision, would be unlikely to deliver choice and control [2] .

268. The Public Contracts (Scotland) Regulations 2015 is clear that a public body is not permitted to award a contract on the basis of lowest price only. Quality and other factors must be considered when awarding contracts and considering tenders. However, in her evidence to the Committee during Phase 2, Pauline Lunn expressed concerns that, due to financial constraints, some local authorities are resorting to tendering on price alone:

> We hear worrying stories of local authorities moving to price-only tenders—that is, with the quality component stripped out—and I agree with the part of the long-term care commission report that highlights that an unintended consequence of the underinvestment in community care services is more folk going into residential care. As a result, they do not get access to self-directed support, because it does not apply to residential services; however, such services are significantly more expensive, so it is a false economy [14] .

269. David Williams also described to the Committee how procurement practices might impact negatively on the way in which services are commissioned:

> [...] there is an issue about the way in which organisations providing care are encouraged and supported through procurement to put in place support provision in exactly the same way. It is more straightforward for providers to respond to the building of care packages if somebody requires X hours or half hours or whatever per day for an individual to do X, Y and Z. The system does not always easily create the environment where there is a greater degree of flexibility—greyness, if you like—which is what is required around the boundaries to enable supported people to have the life that they want and to choose the options that they want [13] .

270. During Phase 1, concerns were also raised about variation of budgets according to the particular option chosen. The Committee heard that top-up fees, payable by the person receiving social care and support, are often a feature of Options 1 and 2. Stakeholders told the Committee that this impacts on what care is practically available, prompting a default to Option 3, to avoid the need for additional top-up charges. Under Option 1, someone employing a personal assistant privately might also incur additional costs and potentially onerous responsibilities associated with employing someone. Because a local authority is unable to commission care directly from personal assistants[vi], a person wishing to receive the support of a personal assistant but unwilling to take on the responsibility of employing them is essentially precluded from choosing Option 2 [3] .

271. All four HSCP representatives giving evidence to the Committee on 11 June said their HSCP was engaged in using different ways of commissioning services or at least considering them. Diane Fraser described a 10-year commissioning framework in place in North Lanarkshire which has shifted from a 'time and task' model to one of annual budgets for individuals and is intended to allow greater flexibility for individuals [13] . David Williams described a commissioning consortium model his HSCP has been developing as "a coproduced approach to responding to particular needs across each of the communities in Clackmannanshire and Stirling [13] ".

272. David Aitken, from East Dunbartonshire, told the Committee that the HSCP has expanded the availability of SDS training to include legal services and strategic commissioning staffi. He added:

> We have brought together our finance and legal colleagues and those in our strategic commissioning team as part of our SDS community of practice, so that they have a much greater understanding of the needs of people who are looking to direct services, particularly in relation to SDS options 1 and 2 [13] .

273. Stephen Morgan highlighted current practice in Dumfries and Galloway, describing commissioning as an area for further focus in the future:

> The health and social care partnership has a strategic commissioning team that commissions all health and social care, including internal commissions; a direction will then be given to the council to procure the social care element; and the council's procurement team will procure the services. To be honest, I would say that that model maps what we have always had… There could be further development by having a specific focus on the principles of the 2013 act when we look at what we commission for social care. We have not really focused on that before [13] .

274. The Scottish Government's improvement plan states that the Scottish Government has identified four outcome areas reflecting where improvements in how SDS is delivered are most needed. Resource, budget allocation and commissioning are included under these areas. However, it is notable that procurement, one of the key drivers of how SDS is delivered in practice, is not included within these outcome areas. Those activities in the plan that underpin these outcome areas are set out as follows [9] :

Improvement plan activities
3.2 More ethical and equitable processes for commissioning, resource and budget allocation3.2.1 Develop and share good practice on commissioning for SDS, and ensure processes align with the most up-to-date guidance and principles from the Adult Social Care (ASC) Ethical Commissioning Working Group.3.2.2 Work to further develop the flexible use of budgets for short breaks for carers, for example promoting examples where positive outcomes have been achieved, and sharing learning about the flexible use of SDS budgets.3.2.3 Supporting local review, good practice and improvement of Resource Allocation Systems, for example testing of calculation methodology, and sharing learning and good practice more widely

275. Des McCart from Healthcare Improvement Scotland, spoke about the links between ethical commissioning and realising assets in the community. He cited an example in South Ayrshire where problems around recruitment and retention of care staff

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vi Local authorities will only commission services from organisations or companies registered with the Care Inspectorate.

have been addressed by using 'microproviders' as a more flexible approach to employing a workforce:

> What we have seen in South Ayrshire is that people such as retired nurses and teachers, especially nursing and care staff, are saying that they do not want to be in full-time employment but are able to offer some of their time in their local community. What are the mechanisms for that? That is where ethical commissioning comes in. We need the right kind of mechanisms that make that happen, and make it happen safely, so that we still have the same standards in care and quality, but are doing things in a good way. It is about getting some of the dull stuff right, such as the commissioning or the mechanistic parts, so that that can happen [17] .

276. In a letter sent to the Committee following her evidence session, the Minister for Social Care, Mental Wellbeing and Sport argued that "ethics and equity are themes that run throughout the SDS Improvement Plan 2023-27". She pointed the Committee to specific areas in the plan which set out a need for more activities to ensure more ethical and equitable processes for commissioning of social care support. The Minister also states that the Scottish Government has funded In Control Scotland to conduct research into current procurement and commissioning practices [25] .

277. The Minister also provided further explanation of how the Scottish Government plans to address ethical commissioning in social care through the creation of a National Care Service:

> [...] the creation of the National Care Service will address the implementation gap by improving commissioning and procurement practices, through better alignment between legislation, strategies and guidance, and local practice. The NCS Board will provide national oversight through agreeing and setting national principles, standards, guidance and practical support for ethical commissioning and procurement which will inform the development and delivery of local ethical commissioning strategies. Work is already underway with partners via the Adult Social Care Ethical Commissioning (ASCEC) working group to develop these principles; in line with the recommendations arising from the Independent Review of Adult Social Care in Scotland (IRASC) [25] .

278. The Committee has heard worrying evidence of a gap of communication and understanding between strategic commissioners and the social work services tasked with arranging social care. The Committee would expect it to be the norm that strategic commissioners within authorities were fully aware of available services and support needs in their local area, and were capable, on that basis, of identifying various ways to commission care more creatively. This does not appear to be the case in all areas, from the evidence the Committee has heard during this scrutiny.

279. The Committee would expect that commissioning and procurement of social care would enable people to meaningfully choose an Option under the legislation and that HSCPs would ensure their care is organised and delivered in the way that they choose. However, contrary to this expectation, the Committee has also

heard that current approaches to commissioning can restrict people's choices, meaning that some Options under the SDS legislation are effectively unavailable to some people seeking care and support.

280. The Committee calls on each local authority to undertake a review of commissioning and tendering processes in relation to social care in their area and, informed by its findings, to develop an action plan with the aim of enhancing flexibility and removing unnecessary restrictions on choice for individuals and thereby improving the implementation of SDS. The Committee further calls on the Scottish Government to set out how it will ensure national oversight of this process.

281. The Committee is convinced that poor commissioning and procurement practices have resulted in transactional commissioning and time and task approaches to care delivery. The Committee has heard evidence that establishing collaborative commissioning models and developing a marketplace of providers could lead to substantial improvements in implementation of the Act. The Committee calls on COSLA and Health and Social Care Scotland to ensure examples of best practice in these specific areas are disseminated across all HSCPs and local authorities.

282. The Committee has concluded from its scrutiny that, in order to be successful, any reforms to commissioning and procurement brought about by the proposed National Care Service need to have SDS principles at their core. The Committee therefore calls on the Scottish Government to set out precisely how it will ensure this is the case.

Monitoring, accountability and transparency

283. Earlier in this report, the Committee set out an overview of current guidance, data and improvement work related to SDS. This section contains more detail on those data sets that have been captured and work the Scottish Government has commissioned to undertake ongoing monitoring and evaluation of SDS.

284. Throughout its scrutiny, the Committee heard from the majority of stakeholders that there is not enough data in Scotland to be able to monitor or evaluate the implementation of SDS effectively. During Phase 2, Donald Macleod from SDSS told the Committee that "there is a lack of data to inform improvement [14] ". During Phase 1, workstream participants also told the Committee that there is "nothing in the current system of implementation currently that provides an impetus for improvement, with mistakes continually repeated and no avenues to address system failure. [3] "

285. There was a consensus among stakeholders giving evidence on 18 June that monitoring and evaluation are equally essential within policy development and in policy implementation. Des McCart from Healthcare Improvement told the Committee that "monitoring and evaluating should have been in from the beginning and should develop over time [17] ". Rob Gowans from the ALLIANCE also argued

that the existence of the implementation gap in SDS shows why effective monitoring and evaluation is needed:

> The purpose of monitoring and evaluation of policy is to make sure that it is working as intended and that it is having the desired effect and the intended outcome. One of the reasons why the ALLIANCE has worked on self-directed support over the years is that people have told us that, although the legislation is good and well-intentioned, there is an implementation gap in terms of what is happening on the ground. People do not necessarily have the choice and control that they should have in the support that they receive, or they are not aware of what their options are for self-directed support [17] .

286. The Committee focused its consideration at Phase 2 on how the implementation of SDS has been and is currently being monitored and evaluated, how that is used to inform practice, and how subsequent improvement work is monitored and evaluated.

287. The Committee asked the Minister and Scottish Government Officials what criteria the Scottish Government had intended to use to assess the success and progress of the implementation of SDS, prior to the Bill's Royal Assent in 2013. In a follow-up letter to the Committee, the Minister for Social Care, Mental Wellbeing and Sport pointed the Committee to the policy memorandum published to accompany the introduction of the Social Care (Self-directed Support) (Scotland) Bill in February 2012 [25] . The policy memorandum contains one paragraph on monitoring and evaluation:

> The Scottish Government will monitor compliance with the Bill through a number of existing or soon to be established measures. The Scottish 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 group includes Scottish Government officials, the Association of Directors of Social Work, the Convention of Scottish Local Authorities, 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 [26] .

288. In her letter, the Minister went on to refer to statutory guidance issued to local authorities in April 2014, which was intended to reflect the duties and powers accompanying the Act [25] . The monitoring and transparency part of this guidance focuses on local authority processes. The Chartered Institute of Public Finance and Accountancy also produced guidance for self-evaluation related to the financial management aspects of implementation of the Act. According to the updated statutory guidance:

> There is no specific requirement in the 2013 Act concerning the collection or publication of data, and therefore the issue of what social care data to collect or publish is for individual local authorities to consider as part of their statutory duties to publish information about their policies and services. However, the SDS Framework of Standards agreed in 2021 (including standards on transparency and recording systems) suggests that authorities should take steps to ensure systems are capable of generating sufficient data to monitor and evaluate its own work to deliver the full range of options as set out in the 2013 Act [7] .

289. Data and learning are captured under the fourth outcome area of the Scottish Government's improvement plan: "Leaders understand and help staff realise SDS principles and values". The associated activities in the plan are as follows [9] :

Improvement plan activities
4.2 Improved data and reporting on information, choice and quality of options to aid planning4.2.1 Improve data-gathering approaches to better determine extent that individuals are accessing their preferred option and their personal outcomes are being met.
4.3 Ensuring leaders are supported through access to shared good practice4.3.1 Review, refresh and promote the SDS Standards. The refresh will use the principles of Equalities Impact Assessment, Fairer Scotland Action Plan and Islands Community Impact Assessment to ensure that they cover all equality groups, care groups including informal carers, islands and diverse geographies.4.3.2 Continue to support local areas to embed the 12 Standards. Where relevant and appropriate, support local authority implementation of SDS Framework of Standards in three priority areas:4.3.2.1 Standard 3: Relationship- and strengths- and asset-based approaches across care groups and across all four SDS options.4.3.2.2 Standard 8: Worker Autonomy (particularly in assessment, support planning and determining personal budgets).4.3.2.3 Standard 12: Access to Budgets and Flexibility of Spend (including improving processes and approaches to approving personal budgets).4.3.3 Consider and develop ways in which the SDS framework of standard may be adapted and used by ISOs to build on improvement of SDS across the whole system.

290. The improvement plan sets out how its activities will be monitored and evaluated through an evaluation plan and annual report:

> A short monitoring and evaluation plan will be developed later in 2023 through the National SDS Collaboration to support how individual activities will be monitored and evaluated [9] .

And:

> Many of the activities of each theme will therefore span multiple years. To ensure transparency, every year (before the end of July to report on the activities undertaken during the previous financial year), an annual progress report will be written by the Scottish Government and agreed by the National SDS Collaboration, to report on progress on activities undertaken [9] .

291. Organisations funded to deliver on activities as part of the improvement plan told the Committee how they monitor and evaluate the work they are commissioned to provide. Kaylie Allan told the Committee:

> We collect both quantitative and qualitative data, and that tells us about the number of people who are getting support; the number of people who have been helped with advocacy or to prepare for assessments; and the number of people who are getting support for their option 1 arrangements and how they are managing as a PA employer or just as an employer [14] .

Dr Kellock also told the Committee:

> We always evaluate the work that we are doing. We all do that across the piece, and that gets fed into the general understanding of how effective our work is. It is difficult to measure such things quantitatively, because we are dealing with issues of fundamental change, implementation and development, both nationally and locally. However, it is possible to look at all this through a learning lens to see what we can understand and learn and how we are putting in place different strategies to meet different needs at a local level [14] .

292. A follow-up letter to the Committee from the Minister for Social Care, Mental Wellbeing and Sport, dated 16 July 2024, provides an update on timescales for development of the monitoring and evaluation plan and production of the annual report:

> A draft of this plan is currently with stakeholders for consideration, with a view to it being published later this summer, with the first annual report produced soon after. The information collated via the processes set out in this plan, alongside future data improvements will be instrumental in identifying successes, as well as areas for improvement [25] .

Data collection

293. In March 2012, the Scottish Government undertook a Social Care (Self-directed Support) Bill: Equality Impact Assessment. This assessment places an emphasis on the overarching importance of the principles of choice and control, over and above the four Options set out in the legislation:

> Providers of care and support have a key role to play in ensuring that self-directed support values and principles translate into real choice and control in the delivery of support and not solely in the decision on one or other mechanism during assessment [27] .

294. During his evidence to the Committee, David Aitken spoke about data and evaluation work being undertaken in East Dunbartonshire:

> We have monthly, quarterly and annual performance figures—we could rattle off all the statistics. We also have a quarterly review of all our support plans, which focus on assets and outcomes and on good conversations. That percolates through into our review paperwork, for which there is a similar approach, so we are able to draw a line from our initial assessment paperwork through to our review paperwork. We monitor and draw out the outcomes that have been achieved from our review paperwork on a quarterly basis, and that has the impact of generating a virtuous cycle that allows us to see where the good conversations are taking place, the difference that is being made and where we have been able to apply that approach. That is very much what drives how we continuously reflect, improve and take things forward by drawing out the good examples of where the system has worked [13] .

295. In contrast to this, many stakeholders told the Committee that, in their experience, the data collected to date was inadequate and largely focuses on levels of uptake of SDS under each of the four Options. James Mahon, one of the researchers

commissioned by the Scottish Government in 2017 to undertake an evaluation of the implementation of SDS, spoke of how little data was available at that time and his ongoing concerns over the evidence the Committee has heard during this post-legislative scrutiny on the current lack of data to evaluate SDS:

> The paucity of data affected our ability to say anything concrete. If we are still in the same position five years after the report, as an evaluator, I find that somewhat disappointing. It is bad enough that we should have collected data from the start but did not. If we are still not collecting that information five years after the report, I do not know how we can evaluate it [17] .

296. Certain stakeholders told the Committee that, although certain metrics, such as counting the number of people taking up a particular option under SDS, might be easy to record, they are of limited practical value. Rob Gowans told the Committee:

> There are still data gaps because data is not being collected, so we know about what options people have taken, but we do not necessarily know whether that was their choice or nothing else was available. Were they given full information or steered towards a particular option? [17]

Pauline Lunn went further in her evidence, expressing her view that:

> [...] there is a danger in assuming that the data that we see on the options that people are using reflects the options that people have chosen. They are not always the same thing. We know that the availability of services is incredibly limited, the pressures that local authorities and support providers are under is intense and eligibility criteria are higher than ever before, which results in people sometimes not having the support that they would choose. The fact that we have that data does not necessarily mean that there have been active choices. I think that we all agree that that is one of the big data gaps. It is not just about recording who is using what; it is also about the extent to which there have been active choices and what people might have chosen otherwise [14] .

297. In alignment with stakeholder views, the Minister for Social Care, Mental Wellbeing and Sport acknowledged in her evidence to the Committee that data collected in social care, and around SDS, wasn't always what is needed:

> [...] one of the problems with data is that we focus very much on the things that are easy to count, such as delayed discharges [...] It is less straightforward to measure unmet need in the community. If we could get that fixed, that would help us with early intervention and prevention and mean that money was spent more efficiently [16] .

298. As an alternative approach, multiple stakeholders argued that there should be a greater focus on gathering qualitative data, ensuring proper alignment with other policy areas, and a learning-based approach to evaluation and improvement.

Collecting the correct data

299. James Mahon outlined to the Committee that, in his view, current metrics are measuring incorrect data and that different sorts of data are required to be able to evaluate SDS effectively:

> [...] we have data on how many people have taken each option, but that is meaningless. Who cares? It is interesting, but how useful is it, actually? What we are interested in is people's outcomes and whether those outcomes are the ones that we want. We also need to break down how the outcomes were achieved. If they were not achieved, why and what evidence do we have to show that? The key data gaps are largely around service user outcomes, but they also exist also for things [...] We need qualitative data in order to better understand the impact that the policy is having on people's lives and how well it has been implemented by local authorities. [17]

300. Pauline Lunn spoke about the work of the National SDS Collaboration and alluded to how the current improvement plan might differ from its predecessors in terms of relative quality of data and improvement work:

> Data is meaningful only if we learn from it. We can gather as much data as we like, but the question is: what are we doing with it? For those of us working in self-directed support and thinking about outcomes, the question is always: so what? What does it mean? How do we learn from it? I think that we are now, perhaps, in a position to do that in a way that we might not have been able to do with other plans [14] .

Alignment with other policy areas

301. There is a focus on the alignment of SDS policy with other policy areas later in this report. However, relating this subject to the question of monitoring and evaluation and quoting findings of the Independent Review of Adult Social Care in Scotland, Dr Brunner made the case for a greater focus in data gathering on the extent to which SDS, and social care, are meeting the overarching objective that "people of all ages having the same freedom, choice, dignity and control as other citizens at home, at work, and in the community [17] ". He told the Committee:

> All our monitoring, evaluation and public policy need to work towards delivery of the national performance framework goals [17] .

Learning based approach to evaluation and improvement

302. Des McCart from Healthcare Improvement Scotland made the case to the Committee for a shift away from performance metrics, arguing that the current focus on performance runs counter to the goal of learning and implementing change:

> It is interesting that [... the] requirement [for monitoring and evaluation] has not necessarily existed from the beginning: that might be one of the reasons why we are still trying to embed self-directed support in Scotland. We have not necessarily understood what has made it possible or what has made it difficult [...] There must be a learning based approach at the heart of improvement. Something that is only about performance does not really help us to learn what we need to change [17] .

303. Des went on to explain that, based on his work at Healthcare Improvement Scotland, his view was that the focus should not be on collecting more data, but instead using the data that currently exists in more meaningful ways. He told the

Committee:

> I am not sure that it is necessarily a question of gathering additional data; in a way, it is more a matter of how we understand it. Local authorities and health and social care partnerships gather an enormous amount of data. The question is whether that just involves performance, and seeing whether the line on a graph is going up or down, or involves seeking an understanding of what is happening behind that. It is a matter of having the right space for looking at the data in a collective way. That means developing an understanding from conversation, rather than just from observation, where we say, "We see this" and draw a conclusion. That speaks to the power of SDS: it is about giving people a central place, alongside those who are trying to provide support [17] .

304. During its scrutiny, the Committee considered some of the areas where improvements could be made to monitoring, accountability and transparency. In particular, the Committee focused on:

- Priorities for monitoring and evaluation
- Learning, improvement and good practice
- Oversight and accountability

Priorities for monitoring and evaluation

305. During Phase 2, the Committee also heard a range of suggestions of types of additional data and research that might be helpful. Key areas of focus in this regard were:

- unmet need
- people's outcomes
- the experiences of social workers and the support available through the local authority.

Unmet need

306. The Committee has heard that there are significant levels of unmet need for social care. Alongside other metrics, a number of respondents to the Committee's call for views in Phase 1 highlighted a lack of data and information available in the public domain around the level of unmet need. An organisation that provides information and advice about SDS and responded to the call for views argued that, in their view, a failure to quantify unmet need meant there would never be a true understanding of how much a holistic, comprehensive social care service would cost:

> Unmet need must be captured and reported on to ensure the demand and need for social care is what 'politically' influences the budget allocation [11] .

307. The SDS improvement plan specifically acknowledges gaps in knowledge and data in relation to unmet need:

> [...] there still remains large gaps in our current knowledge, such as around unmet needs and people's experiences and outcomes, including the extent to which information about SDS options is made available, the extent to which eligible people receive the SDS option that they wanted, and whether that option met their outcomes [9] .

308. The Independent Review of Adult Social Care in Scotland recommended that unmet needs should be monitored and that this should be fed into the strategic commissioning process [28] . During Phase 2, Dr Brunner spoke in depth about unmet need. He explained that some groups were more vulnerable to not having their needs met, including people with dementia, those with communication barriers and those living in isolation and/or poverty. He raised concerns that "there may be a large cohort of disabled adults in Scotland who have low support needs for social care that are still unmet, and who are not on the radar [17] ". He went on to explain how the issue of unmet need also impacts on decision makers:

> To address the question head on, in order to assess unmet needs accurately—that is, to think about the vision of independent living—social workers and others who are making assessments of unmet needs outcomes need to do so without the fear that they will immediately be liable for delivering on all those unmet needs instantly. We need a measure of unmet need that is accurate about achieving independent living for people who need social care [17] .

309. Dr Brunner went on to tell the Committee about research by the University of Glasgow, produced with Nafsika Zarkou in 2023, which developed a new definition of unmet need in adult social care, namely:

> 'Unmet need in adult social care in Scotland' should therefore be defined as: (a) the number of adults in Scotland that need any, more, or amended, social care to enable them to achieve and sustain independent living, and (b) the range of those unsatisfied care and support needs [17] .

People's outcomes

310. Many stakeholders argued for a greater focus on exploring people's outcomes. Recommendations from the engagement workstreams as part of Phase 1 highlighted a need to monitor the identification of outcomes and the extent to which these are achieved, including in those situations where outcomes may change [3] .

311. During Phase 2, Dr Brunner spoke about the original aims of self-directed support and how, in his view, any attempt at evaluation needs to take account of the underlying aim of the policy, namely, to improve people's outcomes:

> What needs attention is the vision of self-directed support and the outcomes in relation to that. As you said, when it comes to what we need to monitor, we should be tracking back from what the policy aims to do [...] That conversation needs to be about what the vision for wellbeing is for people who are achieving self-directed support. Jim Elder-Woodward has talked about that in a different context. People need a reason to get out of bed in the morning. It is not sufficient for social care just to help someone to get out of bed and sit in a chair all day. We need to provide independent living choices for people and to measure what people are able to do with their lives with the support of social care. Are people able to go to work, to go out, to have fun, to fall in love, to become members of the Scottish Parliament, to move house and to go on holiday—to do all the things that are open to everybody else in society? We need to fulfil our equal opportunities and nondiscrimination obligations by thinking about the outcome that social care and self-directed support are intended to achieve [...] [17]

312. Based on the research he undertook as part of a Scottish Government commissioned implementation study in 2017, James Mahon spoke about the types of data that he believed would be required to evaluate SDS effectively. He told the Committee that "information must be routinely collected specifically from people who were using SDS, with very specific questions being asked about the outcomes that they were achieving through SDS and the challenges that they were facing [17] ." He went on to suggest that the Scottish Government should develop an SDS user-experience survey in order to capture standardised information on outcomes:

> A survey of [...] the outcomes at however high a level, on how independent people feel in their living, is not, in itself, enough. You must understand how things happened and what changed and still needs to change in order to improve the system. You will almost certainly not get an answer if you look at outcomes that say, “Everybody’s happy with how this is all going.” You must understand at a deeper level what is going on [17] .

313. The My Support My Choice project was a joint initiative between the ALLIANCE and Self Directed Support Scotland, funded by the Scottish Government under the previous SDS improvement plan. Conducted between November 2018 and February 2020, the project explored people's experience of SDS and social care in Scotland, hearing from 637 people via a survey, interviews and focus groups. During evidence at Phase 2, Rob Gowens from the ALLIANCE told the Committee:

> One of the reasons why we did the “My Support My Choice” research was so that we could find out a bit more about people’s experiences on the ground; that is about issues to do with people not having full information or not having access to independent support or advocacy to help them to decide what would be best for them [17] .

314. Rob added that "quite a bit more needs to be done on data to help us to understand users’ experiences [17] ." James Mahon agreed with this assessment and argued that longitudinal research is additionally required to repeatedly examine the same individuals' experiences over a period of time [17] .

315. While examining budgets as part of its scrutiny, the Committee noted that funding

for the ALLIANCE, under the improvement plan, was not continued for 2024-25 [19]. Joanne Finlay, a Scottish Government Official accompanying the Minister during formal evidence, told the Committee about work being undertaken via the health and care experience survey to gather more data on the extent to which the legislation is meeting the SDS principles:

> The policy team has been working with the health and care experience survey, which provides social care data across the board [...] That data was published just last month, and we can start to use it as a baseline to see how the situation changes over the next few years [16].

The experiences of social workers and support available through the local authority

316. The role, experiences and training of social workers has been extensively addressed earlier in this report, alongside issues around local authorities' implementation of the legislation. During Phase 1, the social work workstream called, as part of monitoring and evaluation, for data to be collected on levels of staff knowledge and skills in interpreting SDS legislation and related guidance. It also called for data to be collected to enable funding and spending decisions within Local Authorities to be monitored and to determine the extent to which these correspond to outcomes. Without this data, they argued that it would be impossible for good practice to be promoted or for the principle of fairness to be consistently applied across all people and areas [3].

317. Again, addressing the findings of the SDS implementation study he was involved in undertaking in 2018, James Mahon argued:

> We came up with four or five questions that we thought were absolutely key to gaining an understanding of how social workers feel the system is working. That is one approach. Other suggestions include adaptations being made to existing surveys that could be undertaken, and wider roll-out of the self-directed support user experience survey [...] There are data gaps everywhere, but that is what we thought would be useful from the service user perspective and the social worker perspective, as well as—to a lesser extent—the local authority perspective. That is because we found not just that there are differences among local authorities in how the system is being implemented, but that there are differences among social workers within local authorities [17].

318. James went on to recommend that, in his view, a survey of social workers and local authority processes should be undertaken to inform future evaluation of the implementation of SDS:

> The social worker element is key: how comfortable were social workers about talking about the various options? Were they leading people towards one option or another? How creative could they be in offering solutions? How did the local authority support that? Were resource allocation panels used? Was that done consistently across an authority? [17]

319. **The Committee is concerned that there was no baseline or benchmarking undertaken, and no clear plan produced, on how to monitor or evaluate SDS**

when the legislation originally came into force. The Committee is further concerned that despite numerous calls to address the lack of monitoring and evaluation data around SDS, including through Scottish Government commissioned research, very little progress has been made over the last decade.

320. The Committee notes the commitment to produce a monitoring and evaluation plan as part of the current SDS improvement plan but regrets that this is still not forthcoming despite previous commitments that it would be "developed later in 2023". The Committee is firmly of the view that, to achieve meaningful improvement in the implementation of SDS going forward, there is a requirement to develop a comprehensive monitoring and evaluation plan for SDS as a whole. The Committee calls on the Scottish Government to develop and roll out such a plan as a matter of urgency.

321. As an integral part of such a comprehensive monitoring and evaluation plan for SDS, the Committee suggests the Scottish Government should include research into:

- the levels of unmet need in relation to social care across the country, including as this relates to those not receiving care and support as well as those who currently do.
- whether people's outcomes are well defined, whether they have been achieved and the challenges they have faced in accessing social care and support.
- Social worker experiences, including any specific challenges in assessing SDS and organising delivery of social care.
- Local authority practices and processes surrounding SDS.

Learning, improvement and good practice

322. During both Phase 1 and Phase 2, the Committee has heard evidence of good practice in relation to the implementation of SDS, where people have been appropriately supported and had their outcomes met.

323. Responses to the Committee's call for views as part of Phase 1 demonstrated that SDS has been transformational for some people. Several respondents stated that the legislation has transformed social care for them, whilst one individual called it a 'lifesaver' [11] :

- Several respondents highlighted the greatly increased choice, flexibility and control that SDS has provided to users due to its person-centred approach.
- Several respondents highlighted that SDS has provided them with more choice around the support they receive. Individuals noted that they can engage with services and receive opportunities that may not otherwise have been available to them.

- Respondents highlighted that SDS has allowed unpaid carers to receive respite from their caring duties.
- A national organisation that supports the use of SDS also commented on the positive role of local independent support organisations in SDS implementation and described how this has been effective at supporting individuals.

324. As a follow-up to Phase 1, Andrea Wood, Chief Executive of Key shared some anonymised good practice examples of SDS with the Committee, which echo some of the experiences shared through the call for views [24] .

325. However, across both phases, the Committee heard that implementation of good practice was not consistent between local authority areas or even sometimes within them. Stephen Morgan highlighted some of the challenges of rurality in Dumfries and Galloway, explaining that a complex interplay of circumstances can have a negative impact on delivery within an area:

> I have already talked about the size of Dumfries and Galloway; it is 6,500km2 , with a population of 150,000, most of whom live in and around the Dumfries area [...] when it comes to delivery and support planning, things are incredibly challenging, because of the difficulty of accessing resource and giving people choice [...] Third sector involvement in the region is limited with regard to the other options. Our care-at-home market is a mix of in-house and private providers, but private providers have limited reach across the region, with quite small pockets of provision, and the costings can vary [...] As much as we try to encourage innovation and look at different ways of commissioning, the area itself makes things difficult. Pay is another difficulty for those who come into social care; staff can get employment elsewhere, and we see them moving through the care system quite rapidly [13] .

326. During Phase 2, the Committee explored with witnesses how best to disseminate local learning and good practice across the country. Stakeholders highlighted difficulties with spreading good practice from one area to another. Des McCart pointed out a key challenge as being that a practice that works well in one area might not necessarily work well in another. He went on to argue that, given that SDS is about personalisation, improving its implementation should also be viewed through that same lens:

> [...] Matter of Focus's OutNav work is beginning to capture outcome data systematically, which allows us to think about what we can learn from such data. How is that happening? What makes it possible? What makes it difficult? There is no magic-bullet answer to spreading practice, because things do not translate—there are different assets in different communities. If this is about person-centred practice, we should build on individual assets and consider what people have or do not have by way of family and friends and community resources, which is different everywhere. If we truly want such practice to be at the heart of SDS and community empowerment, which is what those things are all about, we need to be cognisant of locality and respond to it in the right way. We need to say, "This works in the Isle of Eday because X, and this works in the east end of Glasgow because Y." [17]

327. During the same evidence session, James Mahon challenged the idea that good

practice cannot necessarily be spread from area to area:

> There is an issue with the inability to disseminate information about the problems that are there and the good ways of doing things. It is okay to say that a particular package of support that someone in Shetland wants might not be transferable to Glasgow. I will buy that, but I will not buy the fact that some authorities are doing things such as having resource allocation panels meet to discuss the different requests people have made under option 2 or option 3 [...] Not everybody does that. Are resource allocation panels a good or a bad idea? If they are a good idea, they will be as good in Shetland as they are in Edinburgh, because they are just a means of making a decision. If I find that an area is using a resource allocation panel and that that is working excellently, how can they disseminate that around Scotland so that someone else can see that that is the way to do it? If someone has a better way of doing it, they should tell us, so that we can disseminate that [17] .

He concluded:

> Localise where you really have to, but if there is something good that works you should disseminate that to ensure that everyone is doing that, or something better than that [17] .

328. During evidence at Phase 2, the Committee heard evidence of a range of mechanisms that are used to share learning and good practice of SDS across regions and across the country. David Aitken highlighted the SDS practice network for all SDS leads in Scotland and the chief social work officer national network as vehicles which can facilitate benchmarking, learning and improved consistency. He described the chief social work officer national network in the following terms:

> The national group will be very much that community of practice whereby the development and sharing of learning and experience takes place, as well as being a forum for reflecting on what is working well in different areas and drawing together best practice so that it filters through the country [13] .

329. Referring to proposals for a National Care Service, Rob Gowens also argued that "some of the national structures could help to ensure that good practice is shared across the country and could provide greater consistency [17] ."

330. Des McCart also drew attention to the national SDS collaboration on monitoring and evaluation as another useful vehicle for sharing good practice:

> We are creating such spaces for people to come together and say, "This is how we have implemented it in this area, and this is why it worked," and "We might need to tweak that in our area." We are beginning to create the spaces for that conversation and that learning to happen in situ [17] .

331. Des went on to highlight work by Social Work Scotland, as part of the National SDS Collaborative, to develop a learning based approach to self evaluation in Highland. He cited this as an example of work being undertaken to enable areas to develop their own improvement plans in relation to SDS. In terms any future such plans, he argued there should be a focus on "looking to get consistency in people's satisfaction levels and experience of choice and control, not in the model of care

itself". He told the Committee:

> I think that we are seeing improvement now [...] things take time. I know that that is not an easy thing to accept, but a lot of examples of improvement are beginning to come through. The Highland example that we mentioned is one in which you can see improvements being experienced by people in communities who are receiving care and the staff who are providing care. The intention is to further roll out the SDS framework of standards and the self-evaluation process over the next 12 months. Again, that work will involve the three organisations that are supporting it, and the work should bring forward more evidence of how things look in each area, what is being learned and, therefore, what the improvement plan is to make the approach more real [17] [17] .

332. When asked by the Committee the extent to which current improvement work is accessible to people who are delivering services on the ground, Des responded:

> Our focus for the SDS work has been the staff. That work is accessible to staff and we support them at all levels. The aim is to support management so that it can then support people, but some of the work is directed at building the confidence of staff. For example, In Control Scotland hosted and led appreciative inquiry work, which involved a mixture of facilitation and coaching skills [17] .

333. The Committee has heard encouraging evidence of good practice in certain areas to improve the implementation of SDS on the ground. However, it is concerned that participation in improvement work may be self-selecting, meaning that in those areas where improved implementation of SDS is most badly needed, there is little or no learning or improvement work taking place.

334. The Committee therefore calls on the Scottish Government to develop a proactive plan to identify areas of particularly poor performance and to support these areas to develop their own improvement plans, underpinned by good practice in better performing areas.

Oversight and accountability

335. Throughout this post-legislative scrutiny, stakeholders have repeatedly emphasised the importance of achieving improved national consistency in SDS implementation. This was similarly emphasised in relation to monitoring and evaluation of SDS. While acknowledging the various networks and ways to share learning that exist, stakeholders have told the Committee that there needs to be some mechanism for national oversight.

336. Many responses to the Committee's call for views during Phase 1 advocated the creation of a regulatory body to ensure local authorities are held accountable for proper implementation of SDS, In this context, many stakeholders noted that, currently, "there are not appropriate measures in place to ensure the accountability of the local authorities [11] ".

337. Rob Gowens argued that, as well as in relation to implementation of SDS, national oversight is required in relation to monitoring and evaluation:

> One thing that is missing is a bit of oversight—a joining up of what is being collected and ensuring that we are measuring the right things. The postcode lottery, or the 'unwarranted local variation', as Feeley described it, is a huge issue, which people have reported. There are different things happening in different ways in different places. Some people are eligible for some things in some areas but not in others. We thought that the national care service might have a role in providing a level of national oversight. That could be done, but there is a need for joined-upness—I may have just invented that phrase—of the data that is collected, ensuring that we are measuring the right things, as James Mahon described [17] .

338. The Minister for Social Care, Mental Wellbeing and Sport offered a similar view that the proposed National Care Service could offer an opportunity to establish national oversight and clearer lines of accountability:

> I think that there is a strong case for a national care service. You would expect me to say that, but I think that it is really important that, in circumstances in which there is inconsistency and the situation is challenging for local areas, we will be able to provide national oversight and national support frameworks, and to ensure that different areas can learn from one another. At the moment, they are working in isolation, and we need to improve the learning that takes place across the country [16] .

The Minister added:

> SDS is an example of the reasons why the Scottish Government has introduced the National Care Service (Scotland) Bill, which will allow Scottish ministers greater oversight over the quality of social care in Scotland and greater ability to drive consistency in order to reduce the inequality that we all know exists in the system.
>
> [...] I see an opportunity through the bill to pick up on areas of good practice, as well as to bring grip, coherence and assurance to areas where practice is falling down. I see an opportunity to pick up on areas of good practice and to quickly translate them across the country. That excites me, because that has been challenging in the past [16] .

339. The Committee firmly believes that, to ensure proper implementation of SDS going forward, there is an urgent need to establish a process of national oversight and clear lines of accountability as part of a significantly improved approach to monitoring and evaluation of SDS. The Committee calls on the Scottish Government to set out how it will achieve this.

Alignment of legislation and policy

340. In 2017, Audit Scotland reported in its Self-directed support: 2017 progress report

that the process of integration of health and social care had resulted in the implementation of SDS having stalled. The report states:

> Changing organisational structures and the arrangements for setting up, running and scrutinising new integration authorities inevitably diverted senior managers' attentions [23] .

341. Throughout this post-legislative scrutiny, the Committee has heard evidence that integration has significantly increased the complexity of the governance landscape across health and social care services. The Committee also heard that this complexity (in terms of lines of accountability and responsibility) varies from one HSCP to another, depending on which services are delegated according to each integration plan.

342. During Phase 2 evidence, Dr Kellock from Social Work Scotland confirmed her view that integration has negatively affected implementation of SDS:

> [...] we feel that the implementation of self-directed support somewhat stalled at the point when the Public Bodies (Joint Working) (Scotland) Act 2014 came into play, because there simply was not enough developmental or implementation resource at the local level to be able to do everything well [14] .

343. During the evidence session with HSCPs on 11 June, witnesses indicated, despite the significant proportion of budget committed to its delivery, SDS implementation is not treated as a priority by some local authorities. David Williams suggested that the timing of SDS legislation being introduced has meant that it has fallen foul of other significant challenges facing the sector:

> We also ought to acknowledge that self-directed support, which is a fundamentally different way of doing social work stuff, has been implemented at exactly the same time that the system has been facing other pressures that are considered or perceived to be as pressing or to have more priority [13] .

344. This echoes views the Committee heard during Phase 1. Participants in a private briefing session on 14 November told the Committee that, based on their previous experience of integration and the entry into force of the Public Bodies (Joint Working) (Scotland) Act 2014, they had concerns that legislation to create a National Care Service would act as a further significant distraction from successful implementation of SDS. In particular, they expressed concerns that such legislation could [2] :

    1. continue the status quo and the structures, pathways, processes and cultures that have developed and resulted in SDS being implemented according to availability (or lack of availability) of resources, rather than being based on need and outcomes;
    2. continue to focus on the structure of accountability for delivery of social care rather than ensuring individuals are at the heart of social care, having choice and control on what they want and need - and for that to be equitable regardless of where people live;
    3. divert resources away from social care delivery; and

4. oversimplify implementation of SDS to the point that it is no longer able to deliver its intended purpose.

345. Stakeholders engaging with the Committee during Phase 1 issued a plea that any future legislation – such as the National Care Service (Scotland) Bill – incorporates an explicit commitment to delivering and embedding SDS and its principles.

346. During Phase 2, the Committee has also heard views that SDS does not seem to be particularly well integrated with other policies, even sometimes with other policies operating within the sphere of social care. Rob Gowens told the Committee:

> We are always struck by the fact that self-directed support seems to be separated from social care in people's minds. It is often described as a model for delivering social care when, in reality, it is the model for delivering social care in Scotland [17] .

347. During the Committee's scrutiny of Stage 1 of the National Care Service (Scotland) Bill, stakeholders pointed out that there is no reference to SDS in the Bill as introduced. Frank McKillop argued that SDS and its principles should be a fundamental part of the proposed National Care Service:

> As I said, self-directed support must be at the heart of the care model that is developed and delivered through a national care system to a consistent standard across Scotland. As we see it, the sign above the door says the right thing, but when people go through the door, they do not get what they expect. That has been the experience of a lot of people. The SDS legislation that is in place is excellent; it is fantastic. However, that is not being realised [...] Perhaps the national care service legislation can fill out the foundations to make that a reality for everyone who wants to access SDS, with that becoming the core model for social care in Scotland [12] .

348. Pauline Lunn from In Control Scotland, an organisation that is part of the expert legislative group for the National Care Service (Scotland) Bill told the Committee:

> [...] there has been a lack of self-directed support altogether in the development of the legislation, or at least there has in the conversations that we have been part of. Many members of the national collaboration have taken part in the development of the NCS: some of us are on the expert legislative group and some have been on the advisory group or in other co-production spaces. It feels as if we regularly have to remind the policy writers that—with few exceptions—self-directed support is the cornerstone delivery vehicle for all social care [...] there should be a reinforcement that that is the national policy for social care [14] .

349. During this post-legislative scrutiny, Dr Kellock suggested to the Committee that there is an array of different policies that could contribute to improved implementation of SDS and that there was a "need for a nuanced understanding of self-directed support throughout all the related policy areas." Dr Kellock told the Committee:

> When there is a lack of understanding within national policy of the level of detail of self-directed support, you get lip service being paid to it, without enough detail. We would like to see the self-directed support standards and the core components being written in detail into all relevant policies across Scotland, so that we can see how different policy areas would pick up on different aspects of self-directed support to make that a reality within the national care service [14] .

She added:

> [...] it would be useful for the self-directed support standards, which represent the agreed position across all the stakeholders on what good looks like when it comes to self-directed support, to be looked at carefully by the likes of The Promise Scotland and the national social work agency, and for them to have an understanding of what it will take to implement those standards. Those elements would help at the policy development level, and they would certainly help with the implementation of any of those policies. We really need to have self-directed support more closely weaving through all those policy areas [14] .

350. The third outcome area of the Scottish Government's SDS Improvement Plan is focused on systems and culture, and contains the following activities in relation to other policy and legislation [9] :

Improvement plan activities
3.4 Effectively mainstreaming SDS principles into relevant policies3.4.1 Ensure that SDS is embedded into key national priorities including NCS, the Promise, Dementia Strategy, Ethical Commissioning and GIRFE themes as they develop, drawing on stakeholder evidence and expertise.

351. As an example of joint policy work to improve social work involving her own portfolio and that of the Cabinet Secretary for Justice and Home Affairs and the Minister for Children, Young People and The Promise, the Minister for Social Care, Mental Wellbeing and Sport told the Committee:

> Responsibility for the social work profession lies with Angela Constance. She is a social worker, so has a passion for that. Natalie Don also shares some responsibility, as the Minister for Children, Young People and The Promise, so the three of us work regularly with the chief social worker, Iona Colvin, and her team, to try to ensure that we are delivering a social work workforce that is fit for the future and that it supports autonomous professionals who are empowered to deliver within the system [16] .

352. When asked to what extent integration of health and social care has been a barrier to the successful implementation of SDS, Rachael McGruer, a Scottish Government Official accompanying the Minister, told the Committee:

> We are acting on a principle of continuous improvement. We had the Social Care (Self-directed Support) (Scotland) Act 2013, then the Public Bodies (Joint Working) (Scotland) Act 2014 and now the National Care Service (Scotland) Bill seeks to strengthen integration and the person-centred approach. That is all part of a flight path of continuous improvement. The principles of SDS are reflected in the NCS principles at the beginning of the bill and both sets of principles align. We do not believe that they are in conflict; rather, they strengthen that person-centred, early intervention, support-for independent-living approach. All those core principles of SDS continue to be reflected in the legislation and are further reinforced through the bill [16] .

353. The Minister also spoke about the Scottish Government's ongoing commitment to the principles behind the SDS legislation and how she plans to take these forward as part of the proposed National Care Service:

> That was a huge shift in culture to where the person is at the centre of the decision, and a shift to where their human rights are upheld and early intervention, prevention and support are wrapped around that individual in order to make decisions that suit them and help them to achieve their life goals. I think you will see that ethos firmly embedded in everything that we do from now on. We know that it is absolutely the right thing to do [16] .

354. The Committee recognises that the legislative and policy landscape has changed significantly in relation to social care over the last decade. In particular, the Committee has heard stakeholder concerns that the process of health and social care integration has diverted attention and resources away from successful implementation of SDS. The Committee has also heard stakeholder concerns that the creation of a National Care Service will similarly divert resources away from front-line social care delivery and the implementation of SDS. The Committee calls on the Scottish Government to ensure that the principles of SDS are placed at the heart of all social care delivery in Scotland, whether that is through the National Care Service or other ongoing integration.

355. The Committee also recognises that understanding of SDS is not well established across all relevant policy areas. The Committee is of the view that the principles of SDS need to be better aligned with the mechanisms and duties that local authorities have to work with, or alternatively, as is suggested by this post-legislative scrutiny, those mechanisms (commissioning, procurement, eligibility criteria), and duties (means testing and assessments) must change to enable better alignment of principles and practice. The Committee calls on the Scottish Government to set out how it will ensure SDS is properly integrated and understood within other related policy areas.

Amendments to legislation

356. During this post-legislative scrutiny, the Committee was keen to explore with stakeholders whether amendment of any existing or proposed legislation is required to enable improved implementation of SDS. In particular, the Committee explored this with reference to:

- Social Care (Self-directed Support) (Scotland) Act 2013
- National Care Service (Scotland) Bill (and Public Bodies (Joint Working) (Scotland) Act 2014 through this mechanism)

Social Care (Self-directed Support) (Scotland) Act 2013

357. The consensus among stakeholders is that that SDS legislation is good legislation that does not require amendment. For example, Donald MacLeod told the Committee:

> We conducted some research in 2020 of people's experience of self-directed support. The overwhelming sense was that, where it works, it works well, and that there is nothing wrong with the legislation. It is about the implementation, the local variation and the lack of data and accountability. What people are proposing is more investment in the infrastructure [14] .

Other policy and legislation

358. During his evidence, David Williams suggested that, to improve implementation of SDS, further work may be required on commissioning and procurement. He told the Committee that this might need to be delivered via a combination of culture change, training and legislative change:

> [...] there is something about being able to account for how the money from the public purse is spent, and that equates to best value. What does "best value" mean? For people who need services, best value must mean that they get choice and control over their lives and over the services that they get through the individual budget that is made available to them. Their understanding of something called best value, which guides councils, might be completely different from what the system expects. There is a range of things that we need to do that probably link to culture and a shift in the understanding of what we are actually trying to achieve [13] .

National Care Service (Scotland) Bill

359. At the time the Committee was taking evidence during Phase 2 of this post-legislative scrutiny, the National Care Service (Scotland) Bill had completed Stage 1 of the parliamentary process and entered Stage 2. However, no Stage 2 amendments had been lodged.

360. As part of oral evidence for this scrutiny undertaken in June 2024, the Committee asked stakeholders whether any relevant legislation, such as the National Care Service (Scotland) Bill, required amendment to faciliate the successful implementation of Self-directed Support.

361. At the Committee's request, on 24 June 2024, the Scottish Government provided the draft text of its Stage 2 amendments in advance of formal Stage 2 proceedings to enable the Committee to take further evidence on the amendments prior to undertaking formal proceedings. Details of these proposed amendments can be found on the Scottish Parliament website.

362. The below suggestions therefore reflect stakeholder concerns before any proposed

amendments were made public. This report does not attempt to reconcile any suggestions made by stakeholders as part of this post-legislative scrutiny with the published proposed amendments to the National Care Service (Scotland) Bill. Instead, this report lists suggestions from witnesses, which the Committee will consider as part of its Stage 2 scrutiny of the Bill.

363. Stakeholders suggested that the following should be reflected within the National Care Service (Scotland) Bill:

- Recognition of the importance of SDS as the only delivery model for social care, and promotion of the principles that underpin it.
- Support for practical implementation of SDS, and associated resources.
- Focusing on ethical commissioning, and ensuring that people are at the centre of decision making around how services are commissioned.
- National consistency and oversight around SDS - particularity in relation to:
  - monitoring and evaluation - data and sharing of good practice
  - unmet need
  - eligibility criteria
  - inconsistencies across Scotland
- Full implementation of recommendations from the Independent Review of Adult Social Care, including a formal complaints process in relation to social care.
- Ensuring that a revised social care infrastructure is created to enable SDS principles to be fulfilled recommended on the basis that, at present, the two aspects are at odds.

364. In her evidence to the Committee, the Minister for Social Care, Mental Wellbeing and Sport set out her vision for the National Care Service and the role it could play in seeking to address concerns around the poor implementation of SDS:

> [...] inconsistency in access to SDS is an example of the reasons why the Scottish Government has introduced the National Care Service (Scotland) Bill, which will allow Scottish ministers greater oversight over the quality of social care in Scotland and greater ability to drive consistency in order to reduce the inequality that we all know exists in the system. Through the national care service national board, there will also be the opportunity to share good practice further across the country to enable it to become more widespread. With the NCS will also come greater financial clarity and transparency, which is something that becomes more and more important as financial pressures continue to build. The 2013 act was a significant step, but we still face many challenges, and I recognise the need for further improvement in delivery of SDS at a local level. The Scottish Government remains committed to driving forward improvements in the way in which social care is delivered, and that commitment extends to embedding the principles of SDS in the national care service [16] .

Conclusions

365. This post-legislative scrutiny has been driven and informed by stakeholders' repeated call for action to improve implementation of SDS during both our legislative and inquiry work over recent years.

366. The Committee has been told that the social care sector is in crisis and those accessing, those assessing and those delivering social care face considerable barriers and challenges, which have hampered the full implementation of SDS as originally intended by the legislation.

367. Stakeholders all agree that SDS is good legislation. In line with the recommendations from the Christie Commission, it was designed as part of a suite of public sector reforms, to ensure collaboration, choice and control for individuals using an outcomes-focused approach. The principles underpinning the legislation reflect that vision and the legislation has been widely welcomed across the social work and social care sector.

368. However, for a variety of reasons explored in this report, it is clear that SDS has not so far fulfilled its potential and there has been a failure to implement the legislation in a fair and equitable way across the country.

369. The Committee is clear that there remains much further work for the Scottish Government to do to achieve proper implementation of the legislation through improved national consistency, by supporting better local authority implementation, addressing related issues around commissioning and tendering, and significantly improving processes for ongoing monitoring and evaluation of the policy.

370. The Committee recognises the Minister for Social Care, Mental Wellbeing and Sport's vision for the proposed National Care Service and understands that the Scottish Government views this as an important next step in reforming social care, and by extension, improving SDS. However, the Committee is also firmly of the view that this process of ongoing reform cannot stand in the way of, or divert attention from, the urgent need to address serious shortcomings in the implementation of SDS, more than a decade after its entry into force.

371. During this scrutiny, the Committee has reflected that those seeking care and support do not always know or distinguish between the different Options, and that the focus on the Options in both staff training and development, and data collection can be misplaced. From the evidence it has gathered, the Committee has concluded that, to achieve successful implementation of SDS in accordance with its underlying principles, there needs to be a shift of emphasis away from the four Options set out in the Act and towards those underlying principles of choice and control and, ultimately, achieving positive outcomes for individuals.

372. The Committee recommends the Scottish Government produces updated guidance on the implementation of SDS to provide a framework that focuses on creative and flexible ways of achieving positive outcomes for individuals, informed by good practice and which is not solely focused on the original four Options. As examples, the Committee suggests this could include focusing on

relationship-based support, ethical and collaborative commissioning models, and developing sustainable marketplaces of providers through initiatives to promote greater collaboration.

Annexe A: Evidence and information gathered

Phase 1 evidence

Recommendations from the engagement workstreams,posted 15 February 2024

Summary of the Committee's call for views , posted 15 February 2024

Phase 1 report

Correspondence

Letter from the Minister for Social Care, Mental Wellbeing and Sport, 13 December 2023

Letter from Key concerning good practice examples of self-directed support, 3 May 2024

Letter from Inspiring Scotland following their giving evidence on 4 June, 14 June 2024

Letter from Social Work Scotland following their giving evidence on 4 June, 17 June 2024

Letter from Self Directed Support Scotland on behalf of the National SDS Collaboration , 17 June 2024

Letter from Self Directed Support Scotland following their giving evidence on 4 June, 18 June 2024

Letter from Clackmannanshire and Stirling Health and Social Care Partnership following their giving evidence on 11 June, 21 June 2024

Letter from Healthcare Improvement Scotland following their giving evidence on 18 June, 2 July 2024

Letter from the Minister for Social Care, Mental Wellbeing and Sport following her giving evidence on 26 June, 16 July 2024

Official Reports

Official Report of Tuesday 20 February

Official Report of Tuesday 4 June

Official Report of Tuesday 11 June

Official Report of Tuesday 18 June

Official Report of Tuesday 25 June

Annexe B: Extracts from Committee minutes

5th Meeting of 2024 (Session 6) Tuesday 20 February 2024

3 Post-legislative scrutiny of the Social Care (Self-directed Support) (Scotland) Act 2013: The Committee took evidence from individuals who have participated in informal engagement workstreams as part of its post-legislative scrutiny of the Act, as follows—Becs Barker and Michael Collier, Social care providers workstream; Peter McDonnell, Social work staff workstream; Ryan Murray, Social care staff workstream; Lucy McDonald and Julia Smith, Individuals workstream; Dr Pauline Nolan, Head of Leadership and Civic Participation, Inclusion Scotland; Ann Marie Penman, Carers workstream.

Sandesh Gulhane declared an interest as a practising NHS GP.

6 Post-legislative scrutiny of the Social Care (Self-directed Support) (Scotland) Act 2013 (In Private): The Committee considered the evidence it heard earlier under agenda item 3.

13th Meeting of 2024 (Session 6) Tuesday 30 April 2024

5 Post-legislative scrutiny of the Social Care (Self-directed Support) (Scotland) Act 2013 (in private): The Committee considered a draft report on Phase 1 of its scrutiny, and its approach to Phase 2 of its scrutiny. One change to the report was agreed, and the Committee agreed to consider an updated draft via correspondence. The Committee agreed its approach to Phase 2 of its scrutiny.

18th Meeting of 2024 (Session 6) Tuesday 4 June 2024

3 Post-legislative scrutiny of the Social Care (Self-directed Support) (Scotland) Act 2013: The Committee took evidence from—Kaylie Allen, Director of Funds, Inspiring Scotland; Pauline Lunn, Director, In Control Scotland; Donald Macleod, Chief Executive, Self-Directed Support Scotland; Dr Jane Kellock, Project Lead and Consultant, Self-Directed Support Team, Social Work Scotland.

Sandesh Gulhane declared an interest as a practising NHS GP.

5 Post-legislative scrutiny of the Social Care (Self-directed Support) (Scotland) Act 2013 (in private): The Committee considered the evidence it heard earlier under agenda item 3.

19th Meeting of 2024 (Session 6) Tuesday 11 June 2024

2 Post-legislative scrutiny of the Social Care (Self-directed Support) (Scotland) Act 2013: The Committee took evidence from—Diane Fraser, Head of Adult Social Work, North Lanarkshire Integration Joint Board; Stephen Morgan, Service Director Social Work Services and Chief Social Work Officer, Dumfries and Galloway Council, Dumfries and Galloway Integration Joint Board; David Williams, Interim Chief Officer, Clackmannanshire and Stirling Integration Joint Board; David Aitken, Head of Adult Services, East Dunbartonshire Integration Joint Board.

Emma Harper declared an interest as a registered nurse.

Sandesh Gulhane declared an interest as a practising NHS GP.

3 Post-legislative scrutiny of the Social Care (Self-directed Support) (Scotland) Act 2013 (in private): The Committee considered the evidence it heard earlier under agenda item 2.

20th Meeting of 2024 (Session 6) Tuesday 18 June 2024

2 Post-legislative scrutiny of the Social Care (Self-directed Support) (Scotland) Act 2013: The Committee took evidence from—Dr Richard Brunner, Research Associate, University of Glasgow; Rob Gowans, Policy and Public Affairs Manager, Health and Social Care Alliance Scotland (the ALLIANCE); James Mahon, Economist, York Health Economics Consortium; Des McCart, Senior Programme Manager, Strategic Commissioning, Healthcare Improvement Scotland.

Sandesh Gulhane declared an interest as a practising NHS GP.

4 Post-legislative scrutiny of the Social Care (Self-directed Support) (Scotland) Act 2013 (in private): The Committee considered the evidence it heard earlier under agenda item 2.

21st Meeting of 2024 (Session 6) Tuesday 25 June 2024

3. Post-legislative scrutiny of the Social Care (Self-directed Support) (Scotland) Act 2013: The Committee took evidence from—Maree Todd, Minister for Social Care, Mental Wellbeing and Sport, Joanne Finlay, Policy Lead, Self-directed Support Improvement Team, and Rachael McGruer, Deputy Director, Adult Social Care Local Improvement and Transformation Division, Scottish Government.

Sandesh Gulhane declared an interest as a practising NHS GP.

4. Post-legislative scrutiny of the Social Care (Self-directed Support) (Scotland) Act 2013 (in private): The Committee considered the evidence it heard earlier under agenda item 3.

[1] Scottish Government. (2024). Social care. Retrieved from https://www.gov.scot/policies/social-care/#:~:text=Social%20care%20means%20all%20forms,continue%20in%20their%20caring%20role. [accessed 30 May 2024]

[2] Scottish Parliament. (2024). Post-legislative scrutiny of the Social Care (Self-directed Support) (Scotland) Act 2013: Phase 1. Retrieved from https://bprcdn.parliament.scot/published/HSCS/2024/5/3/6a9bbaa5-64ef-42cb-a5c5-e3db7b48acaf-1/HSCSS062024R09.pdf [accessed 22 July 2024]

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