

### Response: Health and Sport Committee, Social Care Inquiry

February 2020

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#### What is your story and experience of social care in Scotland?

The Health and Social Care Alliance Scotland (the ALLIANCE) is the national third sector intermediary for a range of health and social care organisations. We have a growing membership of over 2,900 national and local third sector organisations, associates in the statutory and private sectors, disabled people, people living with long term conditions and unpaid carers.

The ALLIANCE has worked for several years with our members and partners to monitor, inform, promote and support good policy, law and practice in social care in Scotland.

Recent activity includes a mixed-methods research project with Self Directed Support Scotland called 'My Support My Choice: User Experiences of Self-directed Support in Scotland' (MSMC)<sup>1</sup>. MSMC is funded by the Scottish Government and forms part of the SDS Implementation Plan<sup>2</sup>. It is the largest direct consultation in Scotland to date with self-selecting respondents who access or have attempted to access SDS and social care. MSMC helps fill the research evidence gap on people's lived experiences of SDS and complements other independent reviews like those of the Care Inspectorate and Audit Scotland.

Early findings from the MSMC research highlight that:

- **People who can access SDS see an improvement in the support they receive**, with 74% of survey respondents feeling that SDS has improved their social care experience. **Around a third of people chose how their support was arranged**, a quarter state that their support was chosen by friends or family,

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<sup>1</sup> <https://www.alliance-scotland.org.uk/health-and-social-care-integration/self-directed-support/msmc/>

<sup>2</sup> <https://www.gov.scot/publications/self-directed-support-strategy-2010-2020-implementation-plan-2019-21/>

whilst around a further quarter indicate that social work professionals chose how their support was arranged.

- Many people report uncertainty of how to start the process of an SDS assessment and **information about SDS is not consistently available**. Older people, in particular, reporting difficulty in accessing information about SDS, and confusion about what parts of available support are included under SDS. Many respondents report that they do not fully understand the four options of SDS.
- Many respondents describe **assessments and reviews as a source of considerable anxiety and stress** to them.
- **Geography can play a significant part in people's experiences of SDS** with respondents in rural areas reporting a lack of service choice, effectively limiting their options. People living in rural areas also report difficulties in recruiting staff and confusion over whether travel costs (for themselves and/or personal assistants) are included in their budget.
- **Parents with children who use SDS report widespread difficulties in transitioning from children's social services to adult social services**. Many respondents have reported a break in service provision over several months, and a negative impact on family life.
- **Support through the process of accessing and using SDS is reported as particularly important**. Respondents placed emphasis on the value of peer support and independent advocacy in supporting them. Effective and transparent complaints procedures for SDS are limited.

Full research findings, analysis and recommendations will be published online in national, regional and thematic reports in Spring/Summer 2020. The ALLIANCE and SDSS will directly share recommendations with the Scottish Government, local authorities, communities, people and other relevant stakeholders, including the Scottish Parliament. We are already encouraged by indications from some local authorities that they will use the findings to inform and develop local strategic plans.

**How should the public be involved in planning their own and their community's social care services?**

**Ensure people have choice and control**

A key principle of the Social Care (Self-Directed Support) (Scotland) Act 2013<sup>3</sup> was that a person must have as much involvement as they wish in relation to (a) the assessment of the person's needs for support or services, and (b) the provision of support or services for the person. The MSMC early research findings, however, indicate that around one quarter of respondents are accessing social care services that have been chosen for – rather than by – them or their families. Health and care professionals play an important role in supporting people to access appropriate services, but this should not extend to making decisions on people's behalf.

**The ALLIANCE believes that the principles of choice and control – enshrined in Scots law – should be routinely reflected in people's experiences of social care.**

### **Actively engage people and co-produce solutions**

Putting people at the heart of policy decision-making gives greater credibility and promotes sustainable implementation. We believe that people's experiences can help make positive changes to how social care is delivered in Scotland and we have long called for people to be involved in the delivery of change. The ALLIANCE has a strong tradition of helping people engage with local and national decision-making processes to ensure their voices are at the centre. Recently this has included public involvement in the NHS Tayside Mental Health Services inquiry through a Stakeholder Engagement Group<sup>4</sup>.

Elsewhere, Inclusion Scotland have provided support, expenses and training to assist over 50 volunteers from across Scotland participate in the People-Led Policy Panel on Health and Social Care Support Integration<sup>5</sup>, funded by the Scottish Government. The Panel's role is to work with government, COSLA, other organisations and individuals in the early development and testing of policies. The aim is to promote the active participation of disabled people and unpaid carers in making policy and in monitoring how that policy is carried out.

The aim of groups like these is to better ensure that people with lived experience of health and social care services are at the heart of good decision-making. Equal participation, including support to do so when needed (e.g. with independent advocacy) is also a key element of the human rights based approach. Engaging people with lived experience and unpaid carers has the potential to make significant, positive change to adult social care across Scotland.

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<sup>3</sup> <http://www.legislation.gov.uk/asp/2013/1/section/1/enacted>

<sup>4</sup> <https://www.alliance-scotland.org.uk/people-and-networks/wp-content/uploads/2018/12/Tayside-Report-03.12.18-v2.pdf>

<sup>5</sup> <https://inclusionScotland.org/what-we-do/policy/people-led-policy/>

**The ALLIANCE believes the Health and Sport Committee has an important role to play in calling for more active and meaningful engagement and co-production in social care.**

**How should integration authorities commission and procure social care to ensure it is person-centred?**

### **Fair Work, the living wage and overnight pay**

A Fair Work Convention inquiry<sup>6</sup> has found that fair work was not being consistently delivered in Scotland's social care sector and that this was often driven by current funding and commissioning systems. Meanwhile, recent statistics show that issues related to the social care workforce are highly gendered, with 85% of the workforce identifying as female<sup>7</sup>. The Fair Work Convention report highlighted that failure to address these issues will have broader consequences, for example "voice deficit" (e.g. having no appropriate spokesperson on behalf of the care workforce) and low pay will significantly contribute to inequality in women's working conditions and Scotland's gender pay gap.

In 2016, the First Minister announced that social care staff in Scotland would receive the Scottish living wage (then £8.25) for all daytime hours worked from 1 October 2016. In one move, this increased the level of public spending per capita in adult social care in Scotland to above any other area of the UK. This was, however, limited initially to daytime hours worked – and didn't recognise that many social care providers support people overnight, often referred to as "sleepover shifts".

Announcements later followed from Ministers that Health and Social Care Partnerships would work with care providers to deliver the Living Wage for overnight support. As yet, it is our understanding that full implementation of this policy has not been achieved. A survey of Coalition of Care & Support Providers in Scotland (CCPS) members in August 2019 highlighted that 54% of the rates offered for sleepovers by local authorities were considered insufficient to cover the full cost of implementation.

In the ALLIANCE's view, ensuring paid carers receive the Scottish living wage for every hour worked remains the right thing to do. To achieve the best social care, we must prioritise paying social care staff better and must avoid rolling back to the institutionalised settings of the past to meet the financial challenges of today.

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<sup>6</sup> <https://www.fairworkconvention.scot/wp-content/uploads/2018/11/Fair-Work-in-Scotland%E2%80%99s-Social-Care-Sector-2019.pdf>

<sup>7</sup> <https://data.sssc.uk.com/images/WDR/WDR2018.pdf>

**The ALLIANCE believes that at the core of issues related to fair work, the living wage and overnight pay are the rights of people who access support and services, as well as the rights of people who provide them.**

**Looking ahead, what are the essential elements in an ideal model of social care (e.g. workforce, technology, housing etc.)?**

### **Adopt a human rights based approach to social care**

It is increasingly clear that Scotland cannot maintain the status quo with challenges like ever-shrinking resources, and expect good quality, accessible and equitable social care services for all. While there are examples of good policy and practice scattered around the country, these mainly represent small-scale improvements to existing work that can be short-lived and succumb to changing financial or other priorities.

Scotland needs a radically different approach across the whole system. The ALLIANCE believes that reframing social care as a human rights issue helps to shift it from a 'demand' and 'drain' on resources to a positive investment in the people of Scotland, underpinned by a set of internationally recognised principles<sup>8</sup>. There are several myths about human rights; including that they are either an intangible 'wish-list' with no practical application, a 'bolt on', or purely legalistic and punitive. While work is needed to overcome these misconceptions, there is a growing recognition that the human rights based approach (HRBA) is a different and positive way of doing things in both policy and practice. Rights provide a common language to address and overcome seemingly separate and thorny issues in a joined up, fair and transparent way.

It is not too late to apply the HRBA to current plans, including the Scottish Government's programme to reform adult social care. The HRBA is a practical way to explore the purpose and value of social care and drive the cultural shift away from the stigmatising medical and charitable models of disability to people being treated as rights holders who should not be discriminated against or denied their right to equality because of a condition or disability<sup>9</sup>. It can also be applied across all the

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<sup>8</sup> Principles like universality; indivisible; non discrimination and equality. See <https://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx> and [http://www.scottishhumanrights.com/media/1409/shrc\\_hrba\\_leaflet.pdf](http://www.scottishhumanrights.com/media/1409/shrc_hrba_leaflet.pdf)

<sup>9</sup> See, for example, this film of Professor Theresia Degener, current Chair of the UN's Committee on the Rights of Persons with Disabilities, the mechanism that oversees national implementation of the CRPD: <https://www.youtube.com/watch?v=9ILQOUEAOW8>

reform workstreams, including those on workforce, investment, commissioning and procurement – not just those focused on different models of care and improving the experiences of people who access services.

In a practical sense, adopting a human rights based approach means:

- People should be supported to participate in all decisions that affect them, including the care and support they receive.
- Commissioners of social care services, care providers and inspection and regulation bodies must understand their human rights duties and promote accountability for respecting, protecting and fulfilling human rights in social care.
- People have different identities based on their gender, ethnicity, religion and many other grounds. Each of these identities should be respected when receiving care and support services.
- Everyone, including older people, should understand what their rights are and how they can claim them.
- Care providers and all other accountable bodies must be sure that their practices and procedures are grounded in human rights law. Under the law they must not breach the human rights of anyone.
- Taking a HRBA to fiscal decision-making, commissioning and procurement, as well as service design, delivery, inspection and regulation<sup>10</sup>.

**The ALLIANCE believes we need to apply a human rights based approach to social care across all parts of the system, including service design, delivery, fiscal and regulatory frameworks, at the national and local levels. This will help achieve a fairer, more sustainable and transparent system that works for those who access and deliver services. The current plan to reform adult social care is a timely opportunity to start this work.**

**What needs to happen to ensure the equitable provision of social care across the country?**

Taking a human rights based approach to social care, as described above, should ensure this. In the meantime, applying the following practical measures to the current system will also facilitate positive change:

### **Review eligibility criteria**

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<sup>10</sup> See the work of the ALLIANCE, Scottish Human Rights Commission and partners at: <http://www.scottishhumanrights.com/economic-social-cultural-rights/human-rights-budget-work/>

Eligibility criteria for social care services have long been tightening, leading to the loss of vital support for many people who are disabled, older or living with long term conditions across Scotland. The trend towards narrowing eligibility poses a significant threat to the drive for prevention; people who may need relatively small amounts of support are not able to access the preventative services that could delay or avoid the need for more costly intervention and support further down the line, like being admitted to hospital or residential care.

Audit Scotland has recommended that local authorities and IJBs work with COSLA to review the eligibility framework and ensure that it is still fit for purpose in the light of recent policy and legislative changes. However, their most recent Social Work in Scotland impact report acknowledges that there is “no evidence of this being taken forward at a national level.”

**The ALLIANCE believes that a review of eligibility criteria needs to take place urgently, in order to address their narrowing and the impact on people who require social care support and services.**

### **Remove care charging**

Care charges are overseen by a national care charging strategy written by COSLA and issued to local authorities<sup>11</sup>. According to COSLA’s latest care charging guidance, “Income from service user charges for non-residential care was £44 million.”<sup>12</sup>

Most people in Scotland will access social care at some point in their lives. It is a means to an end to help people continue to enjoy their rights. Care charging uncompromisingly demands that those who are entitled to use non-residential care services pay more to achieve the same basic human rights. In some cases, it can lead to disabled people and people living with long term conditions deciding to do without much needed support, increasing the risk of harm and further deterioration of an illness or condition.

Access to independent living is a critical tool to enable people to contribute as citizens, creating an inclusive and equal society. Supporting independent living is to support not just individual rights, but to value the qualities and contributions that disabled people and people who live with long term conditions have to offer.

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<sup>11</sup> <https://www.cosla.gov.uk/sites/default/files/documents/non-residential-social-care-charging-guidance-2019-20.pdf>

<sup>12</sup> <https://www.cosla.gov.uk/sites/default/files/documents/non-residential-social-care-charging-guidance-2019-20.pdf>

**The ALLIANCE believes that the receipt of social services should be universally free because equal participation in society and independent living are human rights that should be afforded to all.**

## **About the ALLIANCE**

The Health and Social Care Alliance Scotland (the ALLIANCE) is the national third sector intermediary for a range of health and social care organisations. We have a growing membership of over 2,900 national and local third sector organisations, associates in the statutory and private sectors and individuals. Many NHS Boards, Health and Social Care Partnerships and Medical Practices are associate members.

Our vision is for a Scotland where people of all ages who are disabled or living with long term conditions, and unpaid carers, have a strong voice and enjoy their right to live well, as equal and active citizens, free from discrimination, with support and services that put them at the centre.

The ALLIANCE has three core aims; we seek to:

- Ensure people are at the centre, that their voices, expertise and rights drive policy and sit at the heart of design, delivery and improvement of support and services.
- Support transformational change, towards approaches that work with individual and community assets, helping people to stay well, supporting human rights, self management, co-production and independent living.
- Champion and support the third sector as a vital strategic and delivery partner and foster better cross-sector understanding and partnership.

## **For more information**

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