Dear Committee,

We are responding in relation to the call for evidence regarding the above Bill.

The Bill is to be welcomed in that it sets out to address issues with the approach to information-sharing highlighted by the Supreme Court judgement of 2016 in the Children and Young People (Scotland) Act 2014.

We have always been in principle, supporters of the Named Person scheme and look forward to seeing the concerns around this area being addressed so that the service can be fully, confidently and consistently implemented for all of Scotland’s children and young people. Our hope is that this Bill if passed, will go a long way towards setting aside practitioner and public uncertainty around what information should be shared, while enhancing the practical consideration of children’s rights in adults working with them or their families.

Comments on specific points of the Bill would be:

1) **Provision of information by and to named person service provider** –

   (2) Where the outgoing service provider has omitted to share information about a child after applying the required tests, is this to be recorded by this service provider and for how long? And would this in itself pass a DPA test? Would the omission, based on professional judgement by the outgoing service provider have an impact on the liability of the incoming service provider should a link emerge between non-shared information and a subsequent significant negative impact on the wellbeing of the child in question? Would there be historical accountability for the professional judgements taken by the outgoing service providers?

   The overall wording around consideration of confidentiality and right to privacy under existing legislative frameworks is welcomed as it promotes children’s rights. However, there should be more clarity (perhaps in guidance documentation?) around how a distinction would be made around the Named Person service being ignorant of a wellbeing matter (failing in its intended aim) and where the wellbeing matter was known to one service provider, but not communicated to the next (the Named Person service working as expected) though the overall consequence for the child may be the same. This would provide clarity and reassurance for practitioners, which will contribute to them being more confident in their roles of supporting children. It will encourage due consideration of whether information should be shared under the tests outlined and limit reflexive over-sharing based on risk to reputation of withholding.

   (3) The wording of the consideration to be given around impact on a child’s wellbeing is welcomed as this changes the emphasis of the original Act, where the focus was about supporting the Named Person service function. The new approach sits more authentically
within the principles of GIRFEC. The Bill would inherently make the Act more about the child and less about a service provided to the child.

(4) The duty for a Code of Practice to be issued is welcomed in terms of the support it offers to both Named Person service providers and to those across different sectors who will need to consider information-sharing to the Named Person as part of their support for a child or young person. It is hoped that there will be broad consultation around the contents and style of this Code of Practice. While it would be wrong to ignore the complexities, it is to be strongly hoped that the finished document will provide clear guidance to front line practitioners, as well as to senior civil servants.

While subsection 26B(5) seems to suggest this will be the case, to a lay person, subsections 26B(6)(7)(8) could be interpreted as implying that in moving from a draft to a final Code of Practice, the Scottish Government need only take into account comments on the draft made by Parliament and not any other source? Also, it could be read to suggest that the timeline of the process is: consult on content/style, draw up draft Code of Practice, have this scrutinised by Parliament only? It is hoped that this is the author misunderstanding, as wider scrutiny of the draft would be welcomed.

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