Children and Young People (Information Sharing) (Scotland) Bill
BMA Scotland submission
August 2017

Introduction
The British Medical Association is a politically neutral registered trade union and professional association representing doctors from all branches of medicine. The BMA has a total membership of over 168,000. In Scotland, the BMA represents over 16,000 members.

Children and Young People (Information Sharing) (Scotland) Bill
The objective of working to improve outcomes for children and young people is widely supported, and needs to be based upon public trust in the services being accessed. BMA Scotland believes that the position on information sharing is already well established - wellbeing information must only be shared with consent, until it reaches the risk of harm threshold when it can be shared without consent i.e. under existing information sharing provisions.

As drafted, the scope for information sharing on the face of the Bill is very broad – to ‘promote, support or safeguard the wellbeing of the child or young person’. We note that the Bill refers to providing information in compliance with the DPA, but it may be helpful on the face of the Bill, in addition to any reference in the code of practice, for consent and public interest thresholds to be explicitly listed as requirements for enabling information sharing.

There needs to be clear definitions of the terms used in the bill. The thresholds are very difficult to define, but if they are unclear decisions could be challenged legally, either for sharing or not sharing.

Introduction of the Children and Young People (Scotland) Act should see more information being shared with the named person and heightened awareness among staff regarding this, so we support the requirement to consider information sharing, subject to our comments on consent. We suggest this ‘consideration’ would not be documented routinely as most children have wellbeing needs of some sort at one time or other.

It is essential that the GMC has been consulted on the Bill and Code of Practice and is content with these. We do not wish to see doctors put in a position where they are being asked to provide information in a way that is contrary to the professional standards set by the GMC.

Illustrative draft Code of Practice on information sharing
We have the following comments on the Code of Practice (CoP):

We welcome the opportunity for stakeholders to be consulted on any further drafts of the code of practice.

We believe that the term ‘person with parental responsibility’ would be preferable to the term ‘parent’.

We would seek clarification of what is intended by ‘protect the vital interests of the person’ in the context of the named person.

The CoP appears to use a lot of legal terminology. Any code issued would benefit from further information – for example by illustrating what the provisions mean in practice with case studies and/or a decision-making algorithm.
We support informing a person that information is going to be shared when consent is not required. We believe the threshold for not informing the person should be high – for example, if it would cause serious harm. The thresholds appear low in the CoP (section 13).


BMA Scotland