Comments on Information Sharing Bill

Dental Public Health, NHS Ayrshire & Arran

This submission is based on discussions regarding the changes and how they will impact on dental and oral health services and children’s services in NHS Ayrshire & Arran; and with colleagues working in dental and oral health services in other NHS Boards in Scotland.

There has been some confusion expressed about how information regarding oral health will be shared in terms of the Children’s and Young People’s Act and also more generally following the ruling of the Supreme Court and amendments to the Act in light of this.

It is understood that it is required by legislation to have consent to share information in the majority of cases. However, there are some situations in which obtaining consent is not practicable in terms of having contact information of the person who should provide consent and the resources needed to follow-up cases. Removing the duty to share from the legislation and replacing it with a duty to consider sharing in line with the Data Protection Act and other relevant legislation, has added to the confusion. Greater clarity would be appreciated on the nature of the risk assessment and threshold of risk i.e. the risk of harm that allows sharing of data without consent. The illustrative draft code of practice is open to interpretation. It does not appear to align with other guidance on information sharing provided by the General Dental Councils (GDC) Standards for the Dental Team and some of the advice reportedly given by Dental Defence Organisations. It would be helpful for a dental stakeholder group to be established to look at developing specific guidance for dental and oral health teams in relation to this Act. Such guidance would be helpful in ensuring dental and oral health teams work in ways that are consistent with the legislation whilst still upholding the spirit of the Act.

Scenarios within dental services in which the dental professional could share this information with the Named Person within the context of the current legislation

A. Child with dental decay who fails to present for treatment

At a dental examination in primary care dental practice, a child presents with dental decay that requires treatment (prevention and/or restoration). The child does not report any symptoms. However, the child fails to return for treatment. The practice attempts to contact the family are unsuccessful. The dentist is concerned about the health and wellbeing of the child.

The draft illustrative code of practice appears to suggest that this is a scenario in which the dentist could share this information with the Named Person within the context of the current legislation. However, there is differing of opinion as to whether or not this type of scenario would reach the threshold that would be required to allow this to be shared under the Data Protection Act.
The current General Dental Council (GDC) Standards for the Dental Team in relation to Standard 4 - Maintain and Protect Patients Information - advises in section 4.3: “You must only release a patient’s information without their consent in exceptional circumstances”.

The guidance then provided in the Standards document in relation to risk of harm/abuse advises in section 4.3.3: “If you have information that a patient is or could be at risk of significant harm, or you suspect that a patient is a victim of abuse, you must inform the appropriate social care agencies or the police”.

This scenario is one in which the sharing of this information could allow supportive steps to be taken in collaboration with the Named Person and child’s family to support this child to maintain their oral health and general wellbeing at an early stage before they become at risk harm. The evidence suggests that previous dental decay experience is the key predictor of future dental disease and early intervention and prevention are indicated to reduce the lifetime consequences.

B. Child with Dental Abscess
A child presents in pain to a dental services with a dental abscess. They are given a prescription for antibiotics and an appointment for further treatment so that the tooth causing the problem can be treated to prevent further episodes of pain and potential loss of the tooth. However, the child fails to return for treatment. The practice attempts to contact the family are unsuccessful. The dentist is concerned about the health and wellbeing of the child.

The impacts for the child are potentially more significant as they have already experienced pain and may do again if this matter is not addressed. It may be appropriate for this information to be shared with social services. However, it may be that sharing this information with the Named Person could allow a more supportive approach to be taken rather than involving social services straight away which may well cause a significant degree of stress for the family and also increase pressure on very stretched social services.

C. Follow-up of children with decay in the Childsmile Programme
Childsmile is the National Oral Health Improvement Programme. One aspect of the Programme involves the application of fluoride varnish every 6 months to prevent/arrest the development of dental decay in children in priority schools. Parents/carers give consent for children to take part in the programme. If during the fluoride varnish application the child is identified as having a dental problem, an advice letter is sent home to the parent/carer offering support from the Childsmile team to access dental services for treatment. If the child presents the following 6 months with the same or worse scenario they are issued with a second letter, again offering support etc. If however, there is no contact/feedback from the parent and the team are unable to contact the parent to follow this up, naturally there is a level of concern that the needs of this child are for some reason not being met.
This scenario is one in which the sharing of this information could allow supportive steps to be taken in collaboration with the Named Person and child’s family to support this child to maintain their oral health and general wellbeing.