The Scottish Parliament
Pàrlamaid na h-Alba

EDUCATION AND SKILLS COMMITTEE

AGENDA

28th Meeting, 2017 (Session 5)

Wednesday 8 November 2017

The Committee will meet at 10.00 am in the Robert Burns Room (CR1).

1. **Decision on taking business in private:** The Committee will decide whether to take all future considerations of the Children and Young People (Information Sharing) (Scotland) Bill Stage 1 draft report in private.

2. **Education Reforms - witness expenses:** The Committee will be invited to delegate to the Convener responsibility for arranging for the SPCB to pay, under Rule 12.4.3, any expenses of witnesses for the evidence session on the Education Reforms in November and December 2017.

3. **Children and Young People (Information Sharing) (Scotland) Bill Stage 1 Evidence:** The Committee will take evidence from—

   John Swinney, Cabinet Secretary for Education and Skills, Ellen Birt, Bill Team Leader, and John Paterson, Divisional Solicitor, Scottish Government.

4. **Children and Young People (Information Sharing) (Scotland) Bill: Review of evidence (in private)** The Committee will consider the evidence it heard earlier and its approach to its Stage 1 report.

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The papers for this meeting are as follows—

Agenda item 3

SPICe briefing paper	ES/S5/17/28/1
Focus Group Notes Paper	ES/S5/17/28/2
Scottish Government Submission	ES/S5/17/28/3

Agenda item 4

PRIVATE PAPER	ES/S5/17/28/4 (P)

Agenda Item 3 ES/S5/17/28/1

Education and Skills Committee
Children and Young People (Information Sharing)(Scotland) Bill
8 November 2016

INTRODUCTION

This paper suggests possible themes for discussion with the Cabinet Secretary. Further background on the bill is available in SPICe briefing 17/59. Submissions received on the bill are available on the Committee web pages.

The Scottish Government is expected to make a written submission responding to issues raised in evidence during stage 1.

The Finance and Constitution Committee have received written submissions on the bill. The Delegated Powers and Law Reform Committee heard from the Cabinet Secretary on 19 September. On 6 September, the Committee heard from Scottish Government officials. On 20 September, the Committee heard from legal professionals and health professionals. On 27 September, the Committee heard from local authority employees in education and social work and an academic who teaches social workers. On 4 October, the focus was on schools and the Information Commissioner. On 25 October, the Committee heard from organisations that would be required to share information with the named person and those likely to be involved in developing a 'Child's Plan.' On 1 November, the Committee heard from children's and parents' organisations, as well as the No2Named Person Campaign and CLAN Childlaw.

The Delegated Powers and Law Reform Committee issued their report on the bill on 27 October.

THEME 1: ADDRESSING THE SUPREME COURT JUDGEMENT

The Supreme Court found that the:

> "information sharing provisions of Part 4 of the Act […] (b) are incompatible with the rights of children, young persons and parents under article 8 of the ECHR because they are not "in accordance with the law as that article requires, (c) may in practice result in a disproportionate interference with the article 8 rights of many children, young persons and their parents, through the sharing of private information." (para 106).

The Court suggested that this could be addressed by:

> "in relation to conclusion (b) it is necessary to address the lack of clarity as to the relationship between the Act and the DPA, arising from the conflict between the provisions of sections 23, 26 and 27 of the Act and the non-disclosure provisions for the DPA, and, in particular, the confusion caused by section 23(7) and 26(11) when

> read together with provisions of the DPA such as 35(1). Further, in relation to conclusion (c), the Act, subordinate legislation, or binding 'guidance', should address the circumstances in with (i) the child, young person or parent should be informed of the sharing of information or (ii) consent should be obtained for the sharing of information including confidential information."

The Policy Memorandum sets out how the bill addresses these issues (para 8). In summary:

- duty to share information is replaced by a duty to identify information and consider whether it can be shared
- duty to follow a statutory Code of Practice
- repealing s.27 which related to disclosing information in breach of a duty of confidentiality

The Presiding Officer has been advised by the Parliament's legal office that the bill is competent – and so in its view does not breach ECHR.

Some of those making submissions to the Committee consider that the bill does not, or does not fully, address the Supreme Court's ruling. These include:

- The Law Society of Scotland
- Faculty of Advocates
- CLAN Childlaw

The central concern is around the lack of clarity, in particular around the concept of 'wellbeing' and the complex task faced by professionals seeking to apply data protection law, human rights law and the 2014 Act to decisions about child wellbeing.

The No2Named Person written submission states that:

> "it is still unclear how the Data Protection Act 1998 and 2014 Act relate to each other. Anybody trying to understand what the law is will have to simultaneously consider the 2014 Act (a amended), the DPA, the Human Rights Act 1998 and the Code of Practice, to say nothing of the new General Data Protection Regulation (GDPR)."

In oral evidence to the Committee last week, Maggie Mellon, representing No2Named Person, said that the central problem was the lack of clarity around 'wellbeing.' Wellbeing is discussed separately under Theme 2.

The Faculty of Advocates state that: "some of the criticisms of the Supreme Court will continue to apply if the bill as drafted is passed." The Cabinet Secretary told the DPLR Committee on 19 September that he disagreed with the Faculty of Advocates (col 4).

The Law Society: "continue(s) to have concerns about the Bill", but consider that the move from a duty to share to a power to share: "is a helpful safeguard from the perspective of ensuring proportionality."

The Children's Commissioner states that the bill:

> "is intended to address the technical deficiencies in the CYP Act relating to information sharing by amending the Act to ensure it is compliant with the Data Protection Act (DPA) 1998 and with the ECHR. The bill as currently drafted does not achieve this."

Professor Elaine Sutherland (Professor of Child and Family Law at the Law School, University of Stirling) considers that:

> "the amendments to the 2014 Act, embodied in the Bill, and the draft illustrative Code of Practice simply do not clarify how information is to be shared in a manner that overcomes the original objection."

CLAN Childlaw consider that the bill is only a restatement of the existing law. They state that:

> "further legislation in relation to information sharing will complicate further an already complex existing legal framework whilst not altering the circumstances in which information can be lawfully shared."

On the other hand, Alistair Sloan (a Scottish solicitor) considers that, in removing the apparent contradiction between the Data Protection Act 1998 and the Children and Young People (Scotland) 2014 Act, the bill; "sufficiently addresses the issues identified by the Supreme Court in its judgement."

The Information Commissioner's Office is critical of the illustrative draft Code, but is clear that: "we think that the current bill is compliant with the data protection side"(Dr Macdonald, OR 4 October col 22).

Proposed additions to the bill

The Committee has received submissions asking for the following matters to be included on the face of the bill:

- consent (e.g. DPLR Committee, Faculty of Advocates, Law Society)
- seeking the views of the child (e.g. Children's Commissioner, Professor Elaine Sutherland)
- informing the child, young person or parent that information has been shared (e.g. Faculty of Advocates)
- definition of wellbeing (e.g. No2Named Person)
- the voluntary nature of the Named Person Service (e.g. No2Named Person)

Addressing these issues by requiring them to be included in the Code of Practice is discussed below in Theme 3.

The requirement to consider the views of the child, young person and parents was included in sections 23 and 26 of the 2014 Act, but the amended sections not include this provision.

The reference to consent is raised by the DPLR Committee (see above), the Faculty of Advocates and the Law Society. In response to these concerns, the Cabinet Secretary told the DPLR Committee that:

> "I do not propose in the bill to change the law, because I have no desire to change the issue of consent" (DPLR OR 19 September col 5).

Discussing the approach to matters specified in the bill compared to those in the Code he said:

> "What I have put into the bill are the elements of the law that I propose to change, and what has gone into the Code of Practice is the material to explain the interaction of that law, the Children and Young People (Scotland) Act 2014 and wider legal frameworks that I do not propose to change." (DPLR OR 19 September col 6).

John Paterson (Scottish Government) told the Committee that, although it would have been possible for the bill to provide that consent was required, there were difficulties with this approach. He said that:

> "...it would have been possible only to say that consent was required except in certain circumstances. We would then have had to set out those circumstances much in the way that the code does, except that we would have had to do it with the level of precision that is required of primary legislation." (OR 6 September, col 18).

The Committee may wish to discuss:

- **how the bill seeks to ensure that the duties and powers on information sharing are 'in accordance with the law' as required by article 8 ECHR**
- **how the bill seeks to remove the conflict between data protection legislation and the 2014 Act**
- **how the Code of Practice will guard against breaches of ECHR in practice**
- **whether or not including provisions on the face of the bill in relation to the following would better meet the concerns of the Supreme Court:**
  - **consideration of seeking consent to share**
  - **informing that information will be shared**
  - **seeking the views of the child or young person when considering sharing information**
  - **clarifying the voluntary nature of the Named Person Service**

THEME 2: DEFINITION OF WELLBEING

A common theme in evidence to the Committee has been the importance of understanding the term 'wellbeing'. The Committee has heard views that 'wellbeing' is generally understood within individual professions and settings, but that understanding may differ between professions and between different local authorities and health boards. For example, Lorraine McBride, a head teacher, told the Committee that:

> "We take one approach in our authority, but the neighbouring authority might have a different understanding because of the training that people there have had, so they would have a commonality. […] it would be quite useful […] to have guidelines on that commonality of threshold." (OR 4 October col 17).

On 20 September, Professor van Woerden made a similar point, when discussing the assessment of wellbeing using the SHANARRI indicators:

> "One of the challenges with the test is whether it is administered identically by all people with the same thresholds." (OR 20 September, col 36).

The Committee has heard that by creating a 'shared language,' the SHANARRI indicators were helping to create some consistency. It was also suggested that a concept such as 'wellbeing' needed a degree of flexibility. Donna McEwan (Centre for Youth and Criminal Justice) was concerned that:

> "There needs to be flexibility, because there is a concern that if we make the definition too rigid, we will rule out a universal approach." (OR 25 October col 28).

Last week, Maggie Mellon (No2Named Person) told the Committee that the definition of wellbeing is central. Sally Ann Kelly (Aberlour) said that it needed to be more specific. However, Kirsten Hogg (Barnado's) commented that while practitioners are generally comfortable and familiar with using the SHANARRI indicators when considering what support to provide families, they are less sure of applying this to considering whether sharing information would support those families.

The Supreme Court refers to the breadth of the idea of wellbeing:

> "Wellbeing" is not defined. The only guidance as to its meaning is provided by section 96(2), which lists eight factors to which regard is to be had when assessing wellbeing. The factors, which are known under the acronym SHANARRI, are that the child or young person is or would be: "safe, healthy, achieving, nurtured, active, respected, responsible, and included". These factors are not themselves defined, and in some cases are notably vague: for example, that the child or young person is "achieving" and "included". (para 16)

The Court later refers to the "very wide scope of the concept of "wellbeing" and the SHANARRI factors."(para 95)

Already, Section 96(3) of the 2014 Act requires Scottish Ministers to issue guidance on how the SHANARRI indicators are to be used to assess the wellbeing of a child or young person. (Draft guidance was issued in December 2015).

The Committee may wish to discuss:

- **whether 'wellbeing' needs more specific definition in order to ensure consistent implementation of this legislation**
- **the place for flexibility and professional judgement in assessing wellbeing**
- **whether any definition needs to be on the face of the bill, in the Code of Practice or, as currently provided for, covered in guidance**

THEME 3: PARLIAMENTARY SCRUTINY OF THE CODE OF PRACTICE

Kenny Meechan (Law Society of Scotland) said that: "ultimately, the bill is a vehicle for the statutory Code of Practice" (20 September OR col 16). He suggested that:

> "given the Code's critical importance to making this work in a human rights – compatible way, it should probably be contained within secondary legislation to allow full parliamentary discussion of it, rather than simply being laid before Parliament." (OR 20 September, col 16)

In its report on the bill, the DPLR Committee made two recommendations about the Code. Firstly, because the Code must be followed, the Committee considers that it "is intended to

impose obligations on information holders." The Scottish Government should therefore: "give consideration to setting out the Code of Practice in subordinate legislation."

Secondly, the DPLR Committee considered that additional parliamentary scrutiny of the draft Code, recommending that, in addition to laying a proposed draft Code before the Parliament:

> "the final draft of the Code to be laid before and approved by a resolution of the Parliament before it can be issued, and for this requirement to be set out on the face of the Bill."

The Parliamentary procedures attached to 12 example Codes of Practice are described in the annex to the issues paper for the Committee's meeting of 25 October. (Pages 13 to 18 in the papers pack for that meeting). This illustrates the wide variety of procedures which can apply. In the examples found, where there is an obligation to comply with a Code, then there is provision for a Parliamentary vote. Such votes include the Code being contained in an SSI (letting agents), the approval of the Code being an SSI (stop and search) or the Code being subject to a vote in parliament (burial and cremations).

In evidence to the DPLR Committee the Cabinet Secretary explained why he felt that a Parliamentary vote on the Code afforded less scrutiny than laying the document for consultation:

> "If we look at the Code as a statutory instrument, there would be available to Parliament only the ability to accept of reject it. Parliament cannot amend statutory instruments. What I am trying to do is find a means of having as engaged a dialogue with Parliament as possible, so that I can arrive at a helpful design of a Code of Conduct [practice] that can deliver on the expectations in this bill." (DPLR committee OR 19 September col 9).

The bill requires consultation on the Code of Practice. In a letter to the Committee dated 26 July, the Cabinet Secretary stated that:

> "Only once the bill is passed and has received Royal Assent, and the precise power conferred on Scottish Ministers is clear, can a consultation on a draft Code of Practice be undertaken."

Throughout stage 1, the Committee has asked witnesses how they expect to be involved in developing the Code and many referred to discussions they were already having with the Government. For example, the Committee received a supplementary submission from the Royal College of Nursing stating that since their appearance at Committee, the Scottish Government had sought to engage with them on a Code of Practice and they have agreed to work with the Scottish Government on this.

The Committee may wish to discuss:

- **the appropriate level of Parliamentary scrutiny for the Code of Practice. In particular, whether, as highlighted by the DPLR Committee, there could be:**
  - **a requirement for the final draft of the Code to be laid before and approved by a resolution of the Parliament before it can be issued; and**
  - **for this requirement to be set out on the face of the Bill**

- **what plans the Scottish Government has to consult on the draft Code of Practice and involve stakeholders in its development**

THEME 4: TIMING OF COMMENCEMENT AND THE CODE

Section 3 of the bill provides for the substantive sections of the bill to come into force two months after Royal Assent. This raises issues about the timing of the consultation on the Code of Practice. It also raises issues about the need to co-ordinate the 'in force' dates of this bill and the remainder of Parts 4 and 5 of the 2014 Act.

Time required to consult on Code of Practice

A draft Code must be consulted on and laid before the Parliament for 40 days. Ministers must take into account any comments received before publishing the final Code. Given that one of the purposes of the Code is to explain UK data protection law, a decision will also be needed on whether the Code can be finalised before the final provisions of the UK Data Protection bill are known.[1] In evidence to the Committee on 6 September, Ellen Birt (Scottish Government) told the Committee that:

> "The way in which the bill is set out allows us to be responsive to that changing landscape and to ensure that, when additional safeguards and explanation are required once the position of the United Kingdom Government on the general data protection regulation is clear, we will be able to provide those through the procedure on the code of practice that I set out." (OR 6 September, col 9).

Commencement of remainder of Parts 4 and 5 of the 2014 Act

Another issue with timing is the commencement of Part 4 (named person) and Part 5 (child's plan), for which a separate commencement order would be needed. In preparation for the intended introduction of Parts 4 and 5 in 2016, regulations were consulted on and passed in the Parliament on:

- qualification requirements of Named Persons (SSI 2016/16). Subject to negative procedure.
- child's plan (SSI 2016/17) Subject to negative procedure.
- complaints (SSI 2016/152) Subject to affirmative procedure.

These have been revoked. Therefore, even if there was no intended policy change or further consultation, there would still need to be time for parliamentary procedure for replacement regulations. Ellen Birt (Scottish Government) referred to the secondary legislation on complaints, noting that:

> "There is a requirement for secondary legislation in relation to that complains procedure. That will be developed ahead of implementation, so that Parliament will have an opportunity to consider it before full implementation of parts 4 and 5" (OR 6 September, col 12).

In addition, revised draft statutory guidance was published in December 2015, following consultation. Further revisions to statutory guidance would be needed to reflect the changes made by this bill. The Committee heard last week from Barnardo's and Aberlour about the importance of the statutory guidance.

[1] The Data Protection bill is a House of Lords Bill, currently at committee stage.

The Committee may wish to discuss:

- **why the bill provides for commencement 2 months after Royal Assent given the need to:**
  - **consult on the Code of Practice**
  - **align with commencement of other sections in parts 4 and 5 (which will require subordinate legislation to be passed and guidance issued)**
- **whether the Government considers that the duty to comply with the Code can apply before the Code is finalised**
- **whether the Code can be finalised prior to the finalisation of the UK Data Protection Act**

THEME 5: CONTENT OF CODE OF PRACTICE

A 'plain English' Code

One of the strongest themes in the oral and written submissions to the Committee has been the need for the Code of Practice to be accessible to practitioners. Common points made were the need for it to be:

- in plain English
- include practice examples
- include a flowchart for decision making

On 20 September, Janys Scott, QC said that in her view, the Code would be: "extraordinarily difficult to draft." (OR 20 September 2017 col 6).

Other guidance

As those wishing to share information must comply with it, it will need to be drafted in a way that sits within the framework of UK law on data protection and human rights. Ben Farrugia (CELCIS) told the Committee the Code would need to be supplemented with guidance:

> "I have been advised on and have learned more about the limitations on a code of practice—on how much it can include—because of its status in law. […] I understand that there are limitations on what can be in the code of practice, which means that the guidance that accompanies it becomes particularly important. […] Our expectations are now perhaps less about seeing lots of changes being introduced to the code of practice, but what sits with it and what is available to practitioners will become even more important." (OR 25 October, col 30-31).

The written submission from children's organisations raised a concern about the amount of supporting material that might be required:

> "We have significant reservation about how navigable a complicated suite of supporting materials will be for professionals. The Government must therefore be clear during the passage of this bill about the guidance or practice materials they intend to make available."

In relation to data protection, the Information Commissioner's Office has a statutory code of practice on data sharing but this is not focused on the particular context of public authorities sharing child wellbeing information.

Further specification on the face of the bill
The bill requires the code to cover the provision and consideration of provision of information under Parts 4 and 5 of the 2014 Act. Other than requiring that it must, "in particular provide for safeguards," there is no further specification on the face of the bill of what must be included in the code. In its report, the DPLR Committee:

> "…encourages the Education and Skills Committee to explore further with the Government how the issue of consent could be more satisfactorily addressed on the face of the bill."

The Supreme Court suggested, at paragraph 101 of its judgement, what "binding guidance" should cover:

- circumstances in which consent should be obtained
- circumstances in which consent can be dispensed with
- if consent is not obtained, whether the affected parties should be informed of the disclosure either before or after it has occurred
- whether the recipient of the information is subject to sufficient safeguards to prevent abuse

Another issue addressed by the Court was the voluntary nature of the support offered by the Named Person Service. The Court also considered that:

> "There must be a risk that, in an individual case, parents will be given the impression that they must accept the advice or services which they are offered…"
>
> and so
>
> "…care should therefore be taken to emphasise the voluntary nature of the advice, information, support and help which are offered under section 19(5)(a)(i) and the Guidance should make this clear." (paragraph 95).

(NB the Court referred to 'binding guidance', which the Scottish Government proposes in the form of a code of practice in the bill).

Some organisations submitting views to the Committee considered that these issues should be addressed directly on the face of the bill rather than in the code. This is discussed further below under theme 5 on addressing the Supreme Court's decision. Another option is to require that the code of practice address these issues.

The Committee may wish to discuss:

- **whether the Code's status in law limits what can be included in it and whether this limits the potential for producing a truly 'user friendly' document for busy professionals**
- **plans for provision of other supporting materials including statutory guidance on parts 4, 5 and 18 of the 2014 Act**

- **whether the bill should require that the Code cover certain issues such as: consent, the definition of wellbeing and the voluntary nature of the advice and support offered under the named person service.**

THEME 6: DATA PROTECTION

The Committee has discussed the way in which information sharing, under this bill or otherwise, must comply with data protection legislation.

In evidence from practitioners, the emphasis has been largely on working with families, building a relationship with them and sharing wellbeing information on the basis of consent. The Committee has been told that only in very rare circumstances would a practitioner seek to share information without consent. Perhaps reflecting the different circumstances in which they work, the evidence from Police Scotland highlighted that it wasn't always appropriate or possible to use consent as a gateway for sharing well-being information:

> "There are dangers in going for an exclusively consent-based model, because it will cause real difficulties for the police and, probably, for other emergency services. That model will probably cause us to withhold information that otherwise could have been shared under the current law." (OR 25 October col.9)

The Policy Memorandum states that:

> "Information sharing under Parts 4 and 5 of the 2014 Act will sometimes be done with consent, but may rely on other bases, such as compliance with a legal obligation or protection of the vital interests of the person to whom the information relates." (PM, para 25).

The Committee has been told that the GDPR introduces more stringent requirements for gaining consent. In particular, Dr Macdonald (ICO) told the Committee:

> "The big issue on consent under the GDPR is pretty much the inability for public authorities to be using it where there is an imbalance of power." (OR 4 October col 29)

Consent is one gateway for sharing. Others are that it is necessary for a statutory function or required to protect vital interests. Maureen Falconer (ICO) told the Committee:

> "Currently , in order to be able to share information below the 'vital interests' level, the practitioner would still have to rely on one of the other conditions for processing, either consent […] or the processing has to be "necessary", as the Supreme Court points out, for specific purposes." (OR 4 October, col 26)

The ICO has consulted on draft guidance on consent and further guidance is expected early in 2018.

> "We also intend to publish detailed guidance on consent (taking account of the comments we received on the draft we issued previously) and on the other lawful bases for processing, including legitimate interests. We expect this will be early in

2018, as we think it is reasonable to wait until after the Article 29 Working Party[2] guidelines on consent have been adopted."

Kenny Meechan (Law Society) commented that:

> "We need a consent based model, but we will find it difficult to make it fit within the GDPRs requirements. I am not saying that that is impossible, it is just that Parliament faces a difficult balancing act to get to that position." (20 September, col 12)

Reflecting on the changes in practice required by GDPR, he said:

> "I have spent the past 17 years that the Data Protection Act 1998 has been in place repeatedly telling people to get consent and I will probably spend the rest of my career saying, "are you really sure that you want to get consent? I don't think that is the way forward for you." GDPR is driving a fundamental shift in how we engage with people." (OR 20 September col 21).

The Committee may wish to discuss:

- **whether the Government considers that practitioners will, in most cases, be able to continue to use informed consent as a basis for sharing wellbeing information**
- **the impact on the named person service of the more stringent requirements around consent following GDPR, in particular,**
  - **the difficulty in gaining freely given consent where there is an imbalance of power, such as between a child and a public authority**
  - **what alternative gateways for information sharing might be used that would still meet article 8 ECHR requirements**
- **how to reconcile the Supreme Court's emphasis on consent with the requirements of GDPR**

THEME 7: RESOURCES AND WORKLOAD

Resources were provided for the implementation of the Named Person Service when the 2014 Act was passed. The Financial Memorandum states that:

> "The costs associated with this bill only relate to one aspect of practice; the effect of the amended provisions and new provisions on how information sharing should be carried out under Parts 4 and 5 of the 2014 Act." (FM para 10)

Training requirements

The Financial Memorandum estimates the cost of the measures in the bill at £1.2m, which will provide one day's training for staff who are in the Named Person role and provide backfill for those staff to attend training. It does not include estimated costs for those

[2] This working party is established under Article 29 of Directive 95/46/EC. It provides the European Commission with independent advice on data protection and helps develop harmonised policies for data protection in the EU. The Working Party is composed of representatives of: the national supervisory authorities in the Member States; the European Data Protection Supervisor and the European Commission.

organisations that will be required to consider sharing information with the Named Person. These would be those organisations listed in schedule 2 and 3, (such as the police and the Care Inspectorate. However, Judith Tait (Care Inspectorate) told the Committee that:

> "We expect that partnerships and service providers will take appropriate action and make decisions about when it is right to share information, rather than that we will work directly with named person services." (OR 25 October col 2).

A strong theme throughout Stage 1 has been the need for clarity on information sharing and for training to provide this – both for those who will be Named Persons and those who will share information with the Named Person. This was also raised in the focus group held on 31 October. In that group, practitioners said that while they had had some training in relation to the 2014 Act, it was a long time ago, and the Supreme Court judgement had made things unclear. Participants referred to child protection training, which was updated annually, and suggested that a similar approach be taken to information sharing under the Named Person scheme.

Last week, Kirsten Hogg (Barnardo's) told the Committee that it is important that guidance doesn't stand alone, but is supported by training and arrangements for supervision. She referred to the need for a 'suite of materials' to provide the clarity currently lacking.

Public information campaign

In evidence on 1 November, Sally Ann Kelly (Aberlour) suggested a national information campaign is needed to help clarify the named person policy in the eyes of the public.

In its written submission, Parent Network Scotland said:

> "Proper full and understandable information is seen to be lacking and could have been given at an earlier stage with the input from parents helping to guide this Bill."

Workload

Throughout the development of the Named Person Service there have been concerns from some practitioners about the impact on their workload. In relation to this bill and the specific requirement to consider sharing information, concerns have been expressed about the requirement to document decisions and the workload this may create. For example, in their written evidence, NHS Forth Valley said that:

> "further clarification would be welcomed regarding when a practitioner needs to record their 'consideration' of sharing information."

Asked what evidence staff would need to provide to fulfil the duty of considering whether to share, Kenny Meechan said:

> "in practical terms I imagine that it would come down to using some kind of pro forma that said that the factors in favour of sharing the information and the factors against it had been taken into account, that the views of the young person and the parent – if that was applicable in the circumstances had been taken into account and that, on balance all those factors having been taken into account the decision had been made to share the information." (OR 20 September, col 9).

Maureen Falconer (ICO told the Committee that:

> "it would be for the local authority, or its data controller to put in place the appropriate processes whereby front-line practitioners can work their way through the legislation." (OR 4 October, col 31).

In answer to a question from Johann Lamont MSP, Ellen Birt (Scottish Government) said that decisions not to share should also be recorded:

> Johann Lamont: So people will have to record that they decided not to share information.
>
> Ellen Birt: Yes—they will be required to do that. (OR 6 September, col 24)

Advice and support

There was also suggestion that people needed advice and supervision. Kenny Meechan (Law Society) referred to Named Persons "having their lawyers on speed dial" (20 September col18). Ben Farrugia (CELCIS) told the Committee that documentation would not be sufficient to ensure implementation, saying:

> "We need to attend to the structure of supervision in real time – who can professionals turn to for advice and guidance about complex cases." (OR 25 October, col 31).

The Committee may wish to discuss

- **whether, due to the delay in commencement, much of the training on the Parts 4 and 5 will need to be repeated,**
- **the level and type of training required given the complexity of the legal framework and the changes due to GDPR**
- **whether resources should be included for training staff that will share information with the Named Person**
- **the resources required to rebuild trust, such as the public information campaign suggested by Sally Ann Kelly (Aberlour) last week**
- **the degree to which decisions would have to be documented, and the impact of this on workload**

THEME 8: ALTERNATIVE APPROACHES

The Policy Memorandum sets out the policy intention of the bill as:

> "…to bring consistency, clarity and coherence to the practice of sharing information about children and young people's wellbeing across Scotland." (PM para 23).

The approach will:

> "…provide a legislative prompt for information sharing that will underpin the effective operation of the provision of named persons services and child's plans across the country so that children and families get equal access to the right support at the right time if they need this, regardless of where they live." (PM para 24).

The Committee heard last week from Alison Reid of CLAN Childlaw who suggested that the Named Person service could function without the information sharing provisions of this bill. She said:

> "In my view, legislation is not the way that you encourage or prompt information sharing...what we think is that actually we don't need any further legislation."

She added:

> "We have a current legal framework within which this information-sharing part of this bill could operate but what we do need is to have clear, robust, accessible national guidance which is not on a statutory footing."

Ms Reid said her organisation believes the named person scheme could continue without legislation on the information-sharing aspect. She explained:

> "We don't need another bill that says 'apply the current legal framework', you just withdraw this bill and instead you give what practitioners need which is clear, robust, accessible national guidance and a way forward that everybody can then follow."

The Supreme Court judgement referred to the 'revised draft statutory guidance' at paragraph 101 of its judgement:

> "If the guidance is to operate as law for the purposes of article 8, the information holder should be required to do more than merely have regard to it." (para 101)

In this regard, the bill provides for a mandatory Code of Practice on the information sharing provisions of the 2014 Act.

The Policy Memorandum to the bill makes the following comments about alternatives:

> "Commencing Part 4 and Part 5 of the 2014 Act without the information-sharing provisions was considered. The provisions related to information sharing would then ultimately have required to be repealed. This alternative would not have met the policy intention of supporting children and families sufficiently. Without addressing the Supreme Court judgment by bringing forward new legislation to amend the existing information sharing provisions, there would have been a risk that the benefits of a coherent and consistent approach, delivered through good practice in some places already, would not have been made available to all families. The alternative approaches considered were:
>
> - option 1 – continue with the legislative situation as it currently stands, without commencement of Parts 4 and 5 of the 2014 Act.
> - option 2 – commence Part 4 and Part 5 of the 2014 Act without the information sharing provisions.
> - option 3 – introduce a Bill to amend the information-sharing provisions in Parts 4 and 5 of the 2014 Act.
>
> […]
>
> Commencing Part 4 and Part 5 of the 2014 Act with the amended information sharing provisions within this Bill will ensure a coherent and consistent approach to information sharing within the wider context of the GIRFEC approach. The information sharing provisions will underpin the effective operation of the provision of named persons and the child's plan across the country so that children, young

people and parents get equal access to the right support at the right time if they need this, regardless of where they live or learn.
(Policy Memorandum, paragraphs 30 - 32)

The Committee may wish to discuss:

- **the alternative options considered by the Scottish Government before introducing this bill, in particular the feasibility of commencing Parts 4 and 5 without the information sharing provisions**
- **how best to ensure the policy intention of increased consistency in information sharing, and to support the wider aims of GIRFEC**

Camilla Kidner
SPICe
3 November 2017

Education and Skills Committee

28th Meeting, 2017 (Session 5), Wednesday, 8 November 2017

Children and Young People (Information Sharing) (Scotland) Bill

Note of focus groups

Introduction

The focus group discussions took place at the Scottish Parliament on the evening of 31 October 2017. Participants included individuals from a range of relevant professional backgrounds including: charity employees that provide direct support to families children and young people (including youth workers, befrienders and an antenatal co-ordinator); social work representatives; child-minding representatives; day nursery representatives; health visitors; teachers; union representatives; child protection officers and young people including someone with experience of parental imprisonment.

Colin Beattie MSP chaired the evening and welcomed the participants. The participants were then divided into two groups for the focus group discussion. Colin Beattie MSP and Oliver Mundell MSP participated in Focus Group 1. Ross Greer MSP and Clare Haughey MSP attended Focus Group 2. James Dornan MSP had a previous engagement but was able to briefly attend both focus groups.

Throughout this note the nature of a participant's role or perspective may be broadly referred to where the sector they work in or their background provide is relevant to their comments. Beyond that comments are not attributed to individual participants.

Hearing from those with direct practical experience is valuable in informing the Committee's work. **The Committee would like to thank all those who took the time to contribute to the focus groups.**

Focus Group 1

- Definition of wellbeing

It was noted in the education sector that there is a widespread understanding of GIRFEC and SHANARRI by practitioners. Another educational professional agreed but noted there might be differences in understanding between health and education sectors. Nonetheless it would be "retrograde" to define wellbeing in legislation. The concept needs to remain "inclusive". This view was supported by someone from the social work sector.

From a health sector perspective, it was explained that professionals will be involved with children and young people over a wide spectrum of ages. Professionals are also involved with pregnant women. For this reason, practitioners don't want a narrow definition of wellbeing because it needs to be applicable to such a broad spectrum of situations.

This was agreed by many participants. Someone commented that 'defining' wellbeing excludes people, rather than includes them. Another participant noted that a legal definition of wellbeing is not the same thing as what works in practice.

- Consent

It was noted that following the Supreme Court's judgement, local authorities follow a prescriptive process for consent that incorporates a flow-chart approach to decision-making.

An educational professional agreed, noting that the right questions of professional judgement need to be triggered using a flow-chart approach. In their view, the "trigger questions" don't really differ between professionals.

- Impact of GDPR and protection for decision-makers

A social worker explained that concerns about sharing information have arisen since the judgment. The decision-making process is becoming increasingly burdensome, which reflects the requirement to evidence decision-making in the Bill, as well as explaining how to withdraw consent and continually seeking consent.

A participant explained that if professionals need consent at every point, policy makers need to be careful not to discourage practitioners from sharing relevant information, or indeed people from sharing relevant information with practitioners. Another participant agreed, explaining that the issue of discouraging sharing information is problematic for the minor wellbeing issues that the policy is trying to address.

It was noted that following the Supreme Court's judgement, professionals can't automatically share information. If a professional doesn't get the consent of a person to share information, it was suggested that one option is to encourage that person to share the information themselves with other relevant professionals.

One participant considered that it doesn't look like seeking consent will be possible under the GDPR and this is problematic for the third sector. In this regard, some third sector organisations have been told to rely on the contractual nature of their relationship to clients as a means to share information going forward.

From a local authority perspective, it was noted that consent isn't about individual children's cases – it's about body-to-body sharing. In their view, professionals don't need to be concerned about the GDPR if you have good relations with your clients and can rely on consent. It becomes a problem if there's a professional concern about a child or young person and there is a poor relationship with professionals, but this has always been an issue in relation to information sharing about wellbeing concerns. There was agreement on this from other participants.

Another participant noted that defensive practice will be overcome once the new policy is embedded.

- How to include families and obtain informed consent

From a third sector perspective, it was noted that charities are having discussions more often about consent. This process is no longer seen as a tick-box exercise, although getting written consent for everything isn't always practical. All attendees indicated agreement on this point.

A social worker explained that most organisations are using a multi-agency consent model, which is standard practice (known as a “protocol of partnership”). But the issue is about the extent to which individuals understand the model. Many attendees considered understanding of this model would be low.

From a local authority perspective, it was noted that some local authorities use a “team around the child model” but only if parents have agreed to that model. It is important not to forget the child’s right to participate and that nothing is hidden in the process used for obtaining and acting on consent. In their view, policy makers don’t need to legislate for these types of process structures.

A social worker noted that at one time, practitioners became very process driven but this got in the way of good performance and it became harder to identify outcomes for children.

- Alternative approaches

A participant questioned whether the legal definition or test for wellbeing needed to be the same as the definition used by practitioners. In this regard, participants considered that the code of practice needs to be very practical to ensure a shared understanding of wellbeing amongst practitioners from different professional backgrounds. It was noted that not all organisations involved in information sharing could afford to translate a code of practice into something sensible, approachable and useable. From a local authority perspective, it was noted that the ASL code of practice is a good example of a code with practical examples.

A participant also explained that the illustrative code of practice talks about an individual’s responsibility, which sends the wrong message about liability.

- Impact of GDPR and the named persons service

It was noted from a local authority perspective that a duty to evidence decision-making is overly prescriptive. Another participant explained that professional codes of conduct already cover requirements to evidence decision-making for many involved in information sharing.

- Training and resources issues

From a local authority perspective, it was noted that the introduction of the GDPR means that professionals will get additional training on data protection.

A participant explained that professionals need consistent, local interagency training (not a power-point presentation). This would help with building the right culture and relationships around the policy.

Another suggestion was that national consistency in training is required. In this regard, it was noted that negative publicity about the scheme had affected public confidence in it and we “need a national conversation with the public to restore confidence”. It was highlighted that parents don’t understand that the service is for them. There is a persisting perception that the service might work for some families, but not your own. Many agreed and a further suggestion was to establish a national helpline for practitioners and the public.

The session concluded by noting that good relationships with families are essential and they need to be involved.

Focus Group 2

- The duty to consider whether information is held relating to wellbeing

From a health visiting perspective, the duty would not be a huge change. There are grey areas at present, such as where a child is showing autistic traits and parents don't agree. This means the issue is then not discussed with the child's nursery or more widely. Most important thing is the need to 'take the parents with us'.

From an early years' perspective, an increase in health visitor numbers is to be welcomed. Outside agencies are used for child protection training. When there is a child protection concern, information sharing can be done without consent. The concern is in relation to parents practitioners have spent years working with and gaining their trust. Agreed with the previous comment that 'we need to take parents with us' and retain that trust.

From a child-minding perspective, lots of consent is sought from the parent when they register. A question was then raised by another attendee about needing to re-seek consent for different information sharing.

From a young person's perspective, consent is an emotional experience. For those with imprisoned parents, consent is taken away when stories appear in the media.

From a teaching perspective, there needs to be a healthy narrative so children can hold back consent and have some control.

From a child-minding perspective, levels of consent are important, as consent at a low level disempowers children.

- Would the provisions on information sharing affect how you go about seeking consent?

From a teaching perspective, when children arrive at a school from primary school and there is a concern practitioners seek consent to share and discuss on a multi-agency basis. Another teacher asked 'will there be a specific form in front of a child to seek consent?'. They added that the duty to consider in itself won't hamper teachers, but there would be workload / capacity issues if teachers and others have to evidence this thought process. Teachers record consent on SEEMiS now and are moving onto a new system.

- Wellbeing - is there a consistent understanding of it?

Most of the group responded and suggested that there was not a common understanding.

A participant suggested that in their role that covers all Scotland they have found the interpretation to be 'drastically different'. There is a clear structure in place with child protection. Where there is no child protection issue, it is hard to get people around the table if there is no social worker leading on child protection. People are unsure when wellbeing becomes welfare. There is a real lack of clarity as to what wellbeing is. There needs to be something from the Government to the local authorities doing it in different ways, as this situation increases the risk that child protection issues might be missed.

From a third sector perspective, an attendee suggested wellbeing is a 'value judgement'.

From a health visiting perspective, joint support team reviews help the local health visitors to differentiate between wellbeing and child protection.

From a child-minding perspective, if practitioners have concerns of any kind, they can be referred on so those child-minding don't need to consider whether the issue is wellbeing or child protection. It is more about how that information is passed on and who to.

One attendee suggested health visitor shortages were impacting on the ability to fully pursue all concerns.

From a multi-agency perspective information sharing works well in Glasgow, unlike other areas such as Aberdeen.

- What should the Code of Practice include? What should it look like?

Suggestions / observations were:

- Needs to be clearer with practical information to ensure consistency.
- It needs to be something that can be shared with families working with those who might share information.
- The Child Protection matrix works well and good practice from that could perhaps be copied.
- There is a risk of a postcode lottery if the same document is not used by all.
- At recent training, two speakers suggested contradictory approaches in relation to what needs to be shared and what needs to be recorded.
- Scenarios would be helpful, if they are realistic.
- Suggestion that practitioners do not want the code to reduce the process to a 'tick list', as over-defining takes away from professional judgement. This was based on the view that to an extent you have to rely on professional judgement where families need a bit of help.

- The discussion turned to what features of a child protection matrix make it work?

Observations were:

- It creates consistent thought processes every time.
- It gives you something you can go back to and refer to as having followed if your judgement is questioned.

- The discussion turned to the issue of training

When asked what training participants have had so far on named persons, ‘very little’ or ‘none’ were the answers from the group. One person mentioned two days of training that ‘generated more questions than answers’.

From a young person’s perspective, it was suggested that the extent to which children and young people have been consulted about this seems ‘very lacking’.

When asked what training is needed, it was suggested that:

- training in addition to the existing GIRFEC training is required.
- more local training is needed as there were no answers available on the local context when that individual received training.
- best practice training should involve people from different sectors being trained alongside each other so there is consistency of approach across sectors.
- there is confusion as to what is relevant information and who it needs to be shared with.
- there is a need to train on the importance of discussions with families and children (from as young an age as possible), and the importance of consent.
- Multi-agency support would be required and lots of ongoing support afterwards, but resources are needed for that.
- Training needs to include wider organisations such as dentists.

Background on existing training mentioned was:

- Child protection training was two days initially and a top-up / refresh every 12 months, and the attendee suggested training for the new duty should be like that.
- From a child-minding perspective, it is e-learning on child protection and then training with the local authority.
- Child protection training in Glasgow includes training on a community basis using the teacher in-service day.

When asked whether attendees have the resources required for training to happen, there was agreement across the group that there were insufficient resources.

- Families

When asked whether there was an awareness now from parents, children and young people about named persons and information sharing, there was agreement across the group that there was not.

Suggestions were that parents are ‘sceptical’, ‘not overly optimistic’ and often informed by the headlines in the media. One attendee said named persons has an ‘image issue’ as it is viewed, as Childline once was when children would joke ‘I’m going to call Childline on you’ to their parents. There was a suggestion that there needs to be clear messages for parents on what the scheme is trying to achieve.

Someone asked whether there has been a consultation on this new proposal with children and young people? Examples of good practice on how to engage with young people were given and also details of how to have young people leading consultations.

There is an opportunity from a child-minding perspective, since those child-minding get to know parents closely and have a discussion when setting up a new relationship with a family. There is a chance to establish roles and trust before any issues commence.

From a third sector perspective, when a support worker becomes involved with a family it is often when they are at a time of need. On that basis there isn't a chance to establish that long term relationship and trust, so persuading them about sharing information is a lot more difficult. The person needs to be seen to be advocating for that family.

It was suggested that the most important thing is the need for resources to deliver the support when an issue with wellbeing is identified. There was agreement across the group on this point. The example of delays in mental health referrals was given and it was suggested that the named persons plans need to be meaningful or families would be disillusioned. Another attendee said that if the support services are not there then the named person sentiment is 'hollow'.

When asked whether proper resources are important to accompany the named persons scheme, a teacher said that without resources this will raise the issue of resources to the point that it will hit the headlines but it is 'bubbling under' now. A young person asked why resources aren't being tackled instead of new bills creating new issues.

A teacher suggested that the increased incidence of mental health referrals needs to be addressed, saying they can list the children with requirements and their parents are happy to receive support but can't access the support.

Someone suggested that they take children 'under their wing' and reassure them and then can't resource what they need so the children lose faith. The example given was that the presumption of mainstreaming had not been resourced properly and it was suggested that the named person scheme may be the same.

A teacher said their school's family support teacher built trust over years and the school is in a better position because of the information that teacher can get from those families. The teacher added that the role is now paid for through PEF funding. Another teacher suggested there must not be an overburden on people such as the family support teacher as a result of workload and processes from the bill.

- Final comments

One attendee had consulted some youth workers and they had said it was important youth workers are consulted as they are concerned about what happens when young people leave school.

Early intervention helps ease resource issues, for example, if a child-minder recognises a speech issue, they can do training and support for that child which might prevent later referral to a speech and language therapist.

The overview of a child is of real value, for example, behavioural difficulties in the classroom can be better understood by also being aware of health concerns.

From a health visiting perspective, meeting head-teachers at a primary school when children moved to school was really valuable. Sharing information in that way was a very positive thing.

One attendee said spreading best practice is what is required and there has to be a national approach. Another attendee suggested that consistency helps when people move between local authorities.

From a young person's perspective, relationships are so important in making this work.

From a teacher's perspective, although the head-teacher is the named person, the delegated lead person is likely to be a teacher and so the 'lead person' needs extra training about the role.

Final questions were:

- what happens during the school holidays if a named person is a teacher and is concerned about a child?; and
- if the named persons role is challenging then would other children not get as much attention?

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James Dornan MSP
Convenor
Education and Skills Committee

By email

06 November 2017

Dear James

Children and Young People (Information Sharing) (Scotland) Bill

In advance of my appearance on 8 November, I thought it would be helpful to set out how I will ensure that issues raised by stakeholders about the Children and Young People (Information Sharing) (Scotland) Bill will be addressed.

It is important to set out the two overarching objectives of the Bill.

Firstly, its provisions will support agencies and individuals to work with children, young people and families in an integrated way that also facilitates the lawful and proportionate sharing of information. This will ensure every child and young person can better access the support and help they need to succeed.

Secondly, the Bill will also allow the sections in the 2014 Children and Young People Act on the named person service and child's plan to be commenced. The Getting It Right For Every Child approach works. It is about ensuring children and young people receive the right support, from the right people, at the right time. This is where the concept of the named person came from and it is why I remain committed to making available a named person for every child and young person in Scotland.

At its heart, it is a simple concept. It is about ensuring a clear point of contact so that children and young people and their parents can get access to the help and support they need when they need it. This is something parents have asked for and the point from which the named person was developed.

Without this Bill to address the Supreme Court judgment, those legislative provisions cannot be commenced, effectively removing two key elements of the Getting It Right For Every Child approach which are entitlements arising from families themselves asking for improvements in the support they need and want.

The outcome of intensive engagement with a wide range of stakeholders between September and December 2016 also informed my decision to legislate.

They advised that since the Supreme Court judgement, many practitioners and families have questions and concerns about information sharing. That has resulted in people feeling less confident and more cautious about how they exercise their roles and responsibilities.

We know that the status quo is not good enough. The Care Inspectorate report on joint inspections of services for children and young people from 2014 to 2016 underlines the need for improvement in joint working and effective information sharing. None of the Partnership Areas or Health Boards inspected were assessed as providing an excellent service in terms of providing help and support at an early stage, assessing and responding to risks and needs, or planning for individual children and young people.

Too many children and families continue to struggle to navigate services and too many children and young people do not get early access to support which could help them to succeed. Relying on the good practice of some and hoping that others catch up will not deliver for every child and young person in Scotland.

We know that effective and proportionate sharing of information is essential to getting it right for every child. That is why the duty to consider which is at the heart this Bill is necessary. For the first time, relevant authorities and named person service providers will be required by law to consider the information they hold and whether the sharing of such information could support, promote or safeguard the wellbeing of a child or young person. It also provides professionals with a focus to consider the consequences for wellbeing of not sharing information when consent to share is not granted.

The measures in this Bill will provide the clarity and certainty that many are looking for, in relation to how to share information lawfully within the context of fulfilling getting It Right For Every Child functions.

I want to assure you and the committee members that I have listened closely to and considered carefully all the evidence which has been presented to the Committee during Stage 1. The proposals I am setting out below address the issues that have been raised and will ensure this government gives effect not only to the measures in this Bill, but measures in the 2014 Act, ensuring that the Getting It Right For Every Child approach works in practice.

This approach will be informed and developed with the best possible advice and expertise from across the children's services sector.

The Committee has heard of the period of uncertainty which has followed the Supreme Court decision. I believe the time is right for a positive awareness-raising campaign, to be led by government, which will make clear for children, young people, parents and practitioners what the Getting It Right For Every Child approach is about and how the named person service will support them.

More generally, the Code of Practice on Information Sharing will form part of a suite of supporting materials to empower and equip service providers and their workforce to successfully implement the named person service and the child's plan, Parts 4 and 5 of the Children and Young People (Scotland) Act 2014.

The current draft illustrative Code of Practice on Information Sharing was provided to demonstrate how the power to make a binding Code contained in primary legislation could work to address issues raised in the Supreme Court judgment. I acknowledge that this approach has not had the intended effect but that can and will be resolved. The illustrative draft was also not intended to be a final version. As such, it does not incorporate upcoming

changes in the wider legislative landscape, such as how aspects of the General Data Protection Regulation will be incorporated into UK law through the Data Protection Bill, currently being considered by the Westminster Parliament. The Code to be made under the Act, once passed, will quite properly, start from a blank sheet of paper and take account of these upcoming changes. It will not be a further iteration of the illustrative draft.

The procedure outlined in the Bill affords Parliament a high level of scrutiny on the draft Code of Practice and my intention has always been to ensure meaningful dialogue with both practitioners and Parliament in relation to its contents. That is why the Bill requires Ministers to take account of any comments expressed by Parliament before issuing a final Code of Practice. I have, however, considered carefully the evidence given to the Education and Skills Committee and the report of the Delegated Powers and Law Reform Committee and can confirm that I have asked my officials to prepare an amendment at Stage 2 that would give Parliament final approval of the Code of Practice.

The Code of Practice and supporting materials, which includes detailed statutory guidance required under the 2014 Act, will incorporate the sort of information which many stakeholders have called for in written and oral evidence. My objective is to ensure this works in practice for children and young people, parents and practitioners.

To ensure that this is achieved, I will establish the GIRFEC Practice Development Panel this month. This panel will have an independent chair and broad and relevant stakeholder membership to ensure that the Code of Practice, Statutory Guidance and other support materials are workable, comprehensive and user friendly. In particular, this panel will ensure that the experience and expertise of practitioners informs the materials through dialogue and interaction with the wider stakeholder community and that practical knowledge of information sharing in the public sector and children's services is the foundation for the development of these materials.

In addition, the draft Statutory Guidance for Parts 4 and 5 of the 2014 Act will be publicly consulted on, in parallel with the draft Code of Practice on Information Sharing for the Bill, so that everyone can see that there will be an integrated suite of materials for use to guide and support the practice of all those working with children and young people.

I have also listened closely to what has been said to the Committee on resources and support for implementation. I accept that further financial resources, over and above that set out in the Financial Memorandum, will be required to assist implementation and that this will be required over a longer period of time than the first year of implementation. I will consult with stakeholders on the detail of this multiyear approach as the Bill proceeds.

I hope that this provides reassurance that I fully intend to work with stakeholders throughout the Bill process and beyond. I remain committed to ensuring that everyone working with children and young people in Scotland has the supporting materials they need to confidently fulfil their roles and responsibilities in implementing the measures in this Bill, and the Getting It Right For Every Child provisions in the 2014 Act.

JOHN SWINNEY