The Association of Directors of Education welcomes the opportunity to respond to the Call for Views issued by the Education and Skills Committee of the Scottish Parliament on proposed amendments to the Children and Young People (Scotland) Act 2014 by Information Sharing Bill.

Background: Introduction

The sharing of proportionate and relevant information between professionals and partner agencies is a fundamental component of ensuring the wellbeing and protection of Scotland’s Children and Young People. The Getting It Right for Every Child (GIRFEC) practice model and principles are embedded across Scotland’s education establishments. It is however clear that staff, at all levels, continue to have some uncertainty about what information can be shared, at what point and with whom. This uncertainty requires national clarification as it is clear that meeting needs and protecting children and young people is best undertaken on a multi-agency basis. This collaborative work requires relevant and proportional information sharing.

Code of Practice:

ADES welcomes the development of a Code of Practice on information sharing under parts 4 and 5 of the Children and Young People (Scotland) Act 2014. However, the illustrative draft requires significant work to make it a useable document for staff. The Government requires to decide the relative merits of a code which covers only the information sharing aspects of the legislation or whether or not it should be extended beyond that narrow remit. Indeed it may not necessarily be helpful for any Code of Practice to be mandatory as it could be utilised as a step by step guide to sharing information. Young people and families do not necessarily fit into neatly defined practice pathways therefore a non-mandatory code would offer flexibility to meet needs.

If a Code of Practice becomes mandatory it will set out a checklist or process that has to be followed and this, depending on detail, could have both practice and financial implications. It would be helpful for the education profession if a guide outlining the duties and responsibility of staff were published by the Scottish Government. This should clearly set out information sharing duties as related to what is likely to be a technical Code of Practice. The code if written in legalistic language will not be accessible to front line practitioners.

The Code of Practice will need to support information holders reflections on what information may be shared and in circumstances when consent is not granted in order to promote good practice in sharing information to build a holistic assessment of a child's circumstances as a basis for planning appropriate action.
Governance Review – Early Years Expansion

The Scottish Government should carefully consider the development of other policy imperatives as they relate to the sharing of information. This is a period of change in Scottish Education and therefore the unintended consequences associated with change will impact on how we Get It Right and share information. The Scottish Government must ensure that the needs of all children and young people are protected during periods of change.

ADES supports colleagues in Social Work Scotland believing that the code would be improved by:

- Providing an introduction with regard to how the Code fits in with the Getting Right approach and existing guidance for GIRFEC, the National Guidance for Child Protection and good practice
- Defining some of the legal terms (e.g. ‘relevant authority’, ‘vital interests’) with examples
- Illustrative examples to help explain when information may or may not be shared.
- Making it more succinct and using plain English
- Clarify who the Code is aimed at and whether there will be any expectations on local areas to produce further guidance for those professionals exercising duties under Parts 4 and 5 of the Act.
- The Code of Practice should also relate to the Code of Practice for Additional Support Needs which is relevant for teachers when considering concerns around wellbeing.

Information Sharing:

Local Education arrangements have well established practice and governance around sharing information in relation to child protection and welfare. Education professionals have, and will continue to have, the care and welfare of Children and Young People at the heart of their practice. Our schools are safe places for children and young people.

ADES would like to see clear and robust guidance developed around what is and isn’t DDA compliant. This should also add clarity for parents about, in particular, why information is being shared without their consent. The development of a code of practice or guidance should improve working arrangements between partner agencies and not negatively impact on effective current arrangements.

Training in relation to information sharing is vital. Practitioners at all levels in our education establishments have to become confident and capable about how to share information within any new legal framework. If we have hesitant staff who are unsure of their rights and duties children and young people wellbeing will be adversely impacted.

ADES notes the financial memorandum however, urges that a long term fully funded training strategy is developed to support the implementation of the Bill in full.