

Annex B

Scottish Government Meeting Note CEL 29 Meeting, 17th March 2017, Victoria Quay

GIRFEC implementation managers from Health Boards were present at this meeting.
Purpose of the meeting

To provide Health Boards with an opportunity to discuss with Scottish Government officials the way forward the Deputy First Minister set out for addressing the implications of the Supreme Court's judgment in relation to information sharing for Parts 4 and 5 of the Children and Young People (Scotland) Act 2014 (the Act).

To update them on progress being made and anticipated in relation to preparing a Bill to amend the Act and develop specific guidance on information sharing

1 . Scottish Government update

[Redacted text], the Unit Head for Better Life Changes Unit was introduced to the group. **[Redacted text]** explained that following the intense engagement period, Scottish Ministers have decided to address the implications of the Supreme Court's judgment through a Bill on that will amend the Information Sharing provisions in Parts 4 and 5 of the Act. Helen outlined the legislative process. This new legislation will amend provisions in relation to information sharing with and by Named Person service providers so that:

1. duty to consider if information could promote, support or safeguard a child's wellbeing rather than a requirement to share information
2. if any information is identified then there is a duty to consider if the provision of that information would be compatible with the laws of Human Rights, Data Protection, Confidentiality and any other rule of law
3. if both above are affirmative then there is a power to share information with/by the Named Person service providers however there is no requirement to share..

As is current practice within the current law sharing information will be, in all but exceptional circumstances, with consent. **[Redacted text]** has told the group that Scottish Ministers ambition is to commence Parts 4 and 5 in 2018.

[Redacted text] explained that the primary legislation will define the law and this will be of a high level, the detailed will be explained in the specific guidance on information sharing (that the DFM spoke of) and then further explanation will be in the statutory guidance. The GIRFEC Team and the Bill team will need the groups assistance/views as the guidance is developed.

2. Views on the potential format and content of draft guidance on information sharing

- There was agreement in the room that the practitioners need clear, concise and accessible guidance on information sharing.
- There was a discussion around a tiered approach to guidance i.e. specific guidance on information sharing in relation to Parts 4 and 5 , broader statutory guidance on these parts and then national practice guidance that would inform local guidance, protocols, policies, procedures, documentation and systems.
- It was clear that the Parliamentary process would set the framework on this but the group were encouraged to consider their needs.

The members of the group suggested that the guidance should address the following:

- A framework that guides and supports practitioners in recording the decisions they make
- Need for guidance to cover sharing information with child and also adult services
- Examples of good practice
- Duty of confidentiality
- Informing individuals about the potential for information sharing information and when this occurs
- Consent – need to clarify this as the General Data Protection Regulation may have an impact on how this operates in practice. When is consent required/ not required to share information? Who needs to consent? What is best practice in recording consent? How often should consent be revisited in different circumstances? Needs to work together in harmony with confidentiality.

The group was interested to find out where organisations representing medical practitioners and Police Scotland stand? **[Redacted text]** advised that Scottish Government will be working closely with them as we progress to develop the detailed guidance.

There was agreement in the room that the practitioners should have more intensive education in relation to information sharing before they come into practice. i.e. during undergraduate training

The need of training for practitioners was discussed. Practitioners already have a high level of skill in processes around information sharing however they would benefit from an update to this when the guidance has been finalised. It may be more appropriate for the update training on national changes to be integrated with training on what this will mean for local guidance, protocols, policies, procedures, documentation and systems.

3. Communications

There was agreement around the need to promote the overarching Getting it right for every child and the functions of the Named Person in being available to offer advice, information, direct help and help to access other services.

4. Close

ACTION: The group felt a meeting with Local Authority/ Social Work and 3rd Sector partners would be beneficial. GIRFEC Team will arrange a joint meeting and inform colleagues of the date of this meeting.

Scottish Government GIRFEC Team

Scottish Government Engagement on Information Sharing in relation to Parts 4 and 5 of the Children and Young People (Scotland) Act 2014

Meeting of Health Board GIRFEC Change Managers (CEL 29) Group with Scottish Government Getting it right for every child Team

11 May 2017

Scottish Government Note of Meeting

The discussion group included representatives from:

Health Care Improvement Scotland
NHS 24
NHS Ayrshire and Arran
NHS Dumfries & Galloway
NHS Education for Scotland
NHS Fife
NHS Forth Valley
NHS Health Scotland
NHS Grampian
NHS Greater Glasgow and Clyde
NHS Lothian
NHS National Services Scotland
NHS Tayside
NHS Shetland
NHS Western Isles
Police Scotland
Scottish Ambulance Service

The group was welcomed and Scottish Government officials provided a background briefing to introduce the meeting and give context to the discussion.

The discussion focused on the attendees views on the proposed way forward to address the Supreme Court judgment on the information sharing provisions in Part 4 of the Children and Young People (Scotland) Act 2014 (the 2014 Act). The proposed way forward was outlined by the Deputy First Minister on 7 March in a statement to Parliament where he informed Parliament that the concerns raised by the Supreme Court would be addressed through a Bill that will amend the 2014 Act. He also informed them that new guidance on information sharing will be provided. The intent is to introduce the Bill to Parliament before summer recess and at the same time present the Parliament with draft guidance on information sharing in relation to Named Person services and Child's Plans.

This approach will involve replacing some of the provisions in the 2014 Act that the Supreme Court was concerned about with new provisions that require Named Person service providers, and others involved with children and young people, to

consider whether sharing information will promote, support or safeguard the wellbeing of the child or young person and that sharing of such information would be compatible with data protection law, human rights law, the law of confidentiality and other enactments and rules of law. Only if the information can be shared within these legal constraints will the power be there to share it. However there would no requirement to share the information under the Act. The legislation and new guidance will make that clear.

The following is a summary of comments from the group:

- The Group gave general support for the way forward outlined by the Deputy First Minister.
- Particular support was given to the way that the different parts of the decision making process on whether to share information or not were broken down.
- There was general support for a direction of travel that encourages conscious decision making about information sharing where it could promote, support or safeguard a child's wellbeing.
- The group said that if a Code of Practice was being considered then they wished to engage in the development of this Code and any supporting guidance to ensure that these direct service delivery in a way that is uncomplicated.
- A general view was that if there was a Code of Practice then a requirement to adhere to it would bring a high degree of clarity and consistency to information sharing in a sustainable way.
- The groups view was that if a new Code of Practice and guidance were introduced that were detailed then there would need to be enough time for organisations and partnerships to review their local systems, practice, policies and guidance to ensure that they were aligned and staff retrained.
- Members of the group highlighted that the new General Data Protection Regulation due to come into force in May 2018 would have an impact on current law and hence any Code of Practice and guidance.
- There was discussion on the added value of the legislation over and above current practice and the group concluded that with the right guidance the legalisation would result in better practice around consideration of information sharing, consistent practice and also sharing of relevant and proportionate information where it would promote, support and safeguard children's wellbeing.
- Members of the group highlighted the importance of ensuring that students had appropriate training to support practice when newly qualified.

- Some members of the group said that the time frame from Bill introduction before July 2017 with an ambition to commence sometime in 2018 seems challenging.
- The need for a communication and awareness programme to educate the public on Getting it right for every child was thought by the group to be essential.
- The group wished to take time in the near future to explore the implications of proposed legislation and any Code of Practice on how Child's Plans will operate.
- The group emphasised the importance of bringing the family along with you even where there was a clear power to share information; where it was safe to do so, agreement to share information was normally the way forward even if consent was not required. This approach promotes continued engagement and trust.

Scottish Government meeting note.

Getting It Right For Every Child Lead Officers Meeting Tuesday, 14 March 2017, 10.30 – 12.30

Edinburgh Training and Conference Venue
16 St. Mary's Street, Edinburgh, EH1 1SU

A range of lead officers from local authorities, Police Scotland and Education Scotland were represented at this meeting.

1. Key points from discussion on the Deputy First Ministers Statement of the 7th March 2017

An update on The Deputy First Minister's statement to Parliament on Tuesday 7th March 2017 was provided:-

- Scottish Government intends to introduce a new Bill on Information Sharing with and by the Named Person service and associated guidance to Parliament
This will be before Summer recess SG will work with Parliament for a comment date in 2018

Key messages from the 3 month engagement communicated that:

- future legislation must be:
 - respectful of the rights of children & young people, and their families.
 - supportive of practitioners and their professional judgement
 - sharing with consent should be the basis working with children, young people and parents

The exceptional circumstances for sharing without consent are those circumstance that currently legislated for such as child protection/significant risk of harm or other existing gateways.

In relation to 16 and 17 year olds, , the policy is to make a named person available to this group of children/young people. The group was asked to send examples of good practice/ case studies relating to 16 -17 year olds, to provide evidence of the demand and provision being made available for this age group.

2. Views on the potential format and content of draft guidance on information sharing

The information sharing provisions will affect Part 4 and Part 5 (Child's Plan). There is a ICO (Information Commissioner's Office) consultation on EU GDPR currently.

Discussion on what the guidance on information sharing could cover indicated that there was a desire for clear national guidance, support and pathways for information sharing to combat uncertainty.

- Guidance should assist practitioners to balance understanding of DPA and people's rights.
- Sharing information with consent is the good practice model - guidance on the administration of the consent model.
- Case studies to help demonstrate correct information sharing practices within the guidance. Different layers of guidance (tiered) and advice could be the way forward.

There is a clear ambition for national guidance to drive the consistent application of good practice.

The single planning framework of the Child's Plan for co-ordinated intervention is effective, and this must fit all the legislation.

ACTION: There will be an opportunity to keep the group informed on the Bill and guidance. A further meeting of the Getting It Right For Every Child Lead Officers will be scheduled in May which will provide the opportunity to hear the proposed format and content of draft guidance on information sharing. It will also provide an opportunity to identify and discuss any significant issues in advance of the proposed Bill and guidance being laid before the Scottish Parliament. In addition to that, it is intended that a small, multiagency, short-life reference group will be set up, which will require dedicated time. Invites will be sent for this group.

3. Communications

Priority alongside the Bill preparations, will be to re-build confidence in Getting It Right For Every Child – improving communication with practitioners, parents & children.

Communications will be updated and will be available electronically. The revised leaflet work will be for everyone, practitioners, parents, children and young people.

There was a suggestion to create a Getting It Right For Every Child app or use Snapchat to communicate with parents & young people. There are on-going conversations with Young Scot around these ideas and it's useful to note that practitioners support this. A video resource on Getting It Right For Every Child will be available shortly.

Suggestions to improve communications included:

- Publish success stories.
- Use research based evidence to provide rebuttals to the negative messaging.
- The messaging needs the simple approach.
- The new health visitor & universal pathway work may be useful for messaging – possible to link these messages.

- Need more easy-read guides, accessible language in public communications that provide clear and definitive messages for children, young people, parents and practitioners.
- Having fewer but clearer central messages.
- Articulate good practice.

Scottish Government GIRFEC Team

Victoria Quay, Edinburgh EH6 6QQ
www.gov.scot



Scottish Government Meeting Note.
GIRFEC Lead Officers Meeting
12 May 2017

-
- **Part 4: Provision of Named Persons – Information sharing with and by Named Person service providers**

- It was raised that the suggested the first stage of the new provisions (-duty to consider if sharing information could promote, support or safeguard wellbeing of a child, was already applied by most practitioners in children’s services, and where information is identified they already consider if sharing information would be compatible with current existing law. However it was recognised that not all practitioners across public services consider if sharing information could promote, support or safeguard wellbeing of a child.
- It was discussed that the new legislation may be more welcomed by families
- Detailed guidance is required around safeguards and how these will operate this will help build trust and confidence in the Named Person service
- Specific guidance is required around the duty of confidentiality for young people 12 -15 and around 16-17 year olds/ school leavers, and at such times when there was a disagreement between child and parents and in relation to transitions.

-
- **Part 5: Child’s Plan - Information sharing and ECHR in relation to Child’s Plan**

- There was general support that the new provisions drive more quality conversations with families around the benefits to the individual child of information sharing and support seeking agreement to share information respecting the choice of children and parents.
- There was a discussion around, the lead professional to have the responsibility to manage the Child’s Plan and review it and having an action plan within the Child’s Plan which includes what the wellbeing needs are and how they would work with families to ensure that only relevant and proportionate information is shared when necessary.

Other topics discussed:

- There was general support around reinvigorating Getting it right for every child policy.
- General agreement for need for training, support and supervision for the practitioners.
- General support for national consistency around learning and development and guidance.
- It was discussed that more joined up discussion on information sharing between all areas of children's services would be very welcomed.

Please note: These meeting notes are in a draft summary format.

GIRFEC Lead Officer Meeting – VQ 4th September 2017

Bill Timetable

Children and Young People Information Sharing Bill

Illustrative Draft Code of Practice (3 month consultation after Bill is passed, sit for 40 days for Parliament to pass judgment)

Questions on Bill Process Timetable

Q. Back to supreme court for ratification? = could be challenged again, through Scottish courts, etc. But long process. Legal inside SG could refer to the supreme court – highly unusual.

Q. Engagement with resistors – any opposition noise that they would take to court again? Not convinced the need for this legislation, although noise that the direction we are heading is good. But still challengeable.

Organisation Perspective – Issues, views, etc.

Clear view from LA did not occur for many of the LA's. Discussion's in small groups Bill and the Code of practice

- Bill not spoken about – looked at the Code the most. Issue with language. Training with examples and scenarios and how to's in each situation.
- People forgetting about it. Progress?
- Clear guidance – Faculty of Advocates quoted.
- Issue with consent.
- Impact on professional – Part 5 not discussed as much – Issue with age range, 16-18 year olds.
- Clarity from the guidance – code – language etc.
- Capacity of a 12 year olds to give consent.
- Bill only creates the duty to consider – no weight or duty to it. Legal element of no consent on face of the bill.
- Practitioners need guidance. Simplified for actual use.
- Flowchart used. Information sharing happening without codifying it through this Bill. Confusing people now.
- Practitioners scared about sharing – risk averse.
- Police Scotland – national partners – does not feel like it needs to comply. Will continue to operate a no consent model. Has created issue for LA's.
- Parents and families believing the press rather than reality. Need more communication for everyone to know what is happening.
- More FOI requests.
- Back to basics for GIRFEC.
- Wellbeing pathway and data protection training with employees.

Please note: These meeting notes are in a draft summary format.

- Bill – welcome changes however issue with staff judgement across organisations.
- Issue with children’s capacity to consent.
- Code of practice needs to be clearly accessible – who is it for?
- Look forward to statutory guidance now so people can put an input into it – reassurance now.
- Back to basics very important to everyone. Reinvigorate the basic principle of it all for everyone.
- Child’s Plan mixed with assessment information – too confusing. This will bring clarification to the Child’s plan.
- No added complaints part – all systems working together – brings less confusion.
- 365 day – police sending welfare concerns to schools during school holidays?
- Information deletion concerns (GDPR) but also concerning children movement from schools/areas.
- Children Scotland Act 1995 – welfare provisions mentioned. Best interest of the child – 2011? In our code of practice. Conflicts with the UK data protection act = although present in Scottish Legislation already, people just unaware of this. Not necessary in our legislation due to it being already present.

Scottish Government meeting note.

Getting It Right For Every Child Third Sector Meeting 23 March 2017 Central Hall Edinburgh

A range of Third Sector organisations were represented at this meeting.

Purpose of the meeting

To provide key Third Sector partners and stakeholders with an opportunity to discuss with Scottish Government officials the way forward in addressing the implications of the Supreme Court's judgment for information sharing for Parts 4 and 5 of the Children and Young People (Scotland) Act 2014 (the Act), as set out by the Deputy First Minister.

To update key Third Sector partners and stakeholders on progress being made and anticipated in relation to preparing a Bill to amend the Act and develop specific guidance on information sharing

1. Key points from discussion on the Deputy First Ministers Statement of the 7th March 2017

- The proposed duty to “consider sharing information ” was generally welcomed.
- The duty to ensure compatibility with law on information sharing, human rights and confidentiality was also generally welcomed, although a cautionary note was made that guidance should be useful for practice.
- Participants welcomed the reference to the “power to share” rather than a duty, as that gave the flexibility needed for professional judgement.
- The emphasis on supporting the rights of families was also welcomed and participants made the point that children’s rights should be to the forefront of the Getting It Right For Every Child approach.
- There was general agreement that legislation supported by specific guidance on information sharing would be helpful and only in exceptional circumstances would information be shared without consent. Participants expressed the view that in their experience parents are motivated to get the best help and support for their children when they need it.

2. Views on the potential format and content of draft guidance on information sharing

- The idea of a tiered approach to the guidance was discussed and generally supported ie. specific guidance/ guidelines on information sharing, statutory guidance for Parts 4 and 5, practice materials/ guidance to inform appropriate, relevant and proportionate information sharing in general and in specific circumstances.
- Strong support for guidance that is understandable to children, young people and parents as well as practitioners.

- Strong support for a national approach to help drive consistent application of good practice.
- There was mixed views on the use of case studies. There was general agreement they did play a role in helping to enhance understanding and help illustrate good practice but on the other hand they cannot address every circumstance, as every child and families situation is different.
- Participants made the point that guidance on principles would be helpful.

3. Communications

- Strong view that messaging needs to emphasise the benefits of the Getting it Right for Every Child approach.
- Participants said that in their experience the Getting It Right For Every Child approach is welcomed when people have helped parents to understand what it is about, what it is for, how it can help them and their children.
- Participants thought it would be helpful to Third Sector organisations if there was clear signposting to up-to-date, accurate communication tools/literature that they could use directly or adapt to suit their needs. This would help them to share accurate messages with stakeholders and families.

4. Next steps.

- Participants welcomed the offer of a further meeting in advance of the proposed Bill being introduced to Parliament and related draft guidance being laid before the Scottish Parliament.
- Notification of a date for a future meeting to be issued as soon as possible.

Scottish Government GIRFEC Team

Scottish Government Meeting Note.
GIRFEC 3rd Sector Meeting
17 May 2017

Information Sharing provisions:

- Questions were raised around timescales, training and guidance. The questions around the guidance were around - consultation on the guidance, whether data processing would be address in the guidance, if the guidance would cover the situations where there is desire to share information but there is no agreement from the family. Also whether the guidance would cover situations where a child's views are different from the parent's views.
- It was expressed that if the guidance is referred to in the Act, it would be of interest to the 3rd Sector to be able to be involved in the development of it.
- There was interest around parents' views in reference to professional judgement in the Act.
- Questions were raised around the complaints procedures. A question was raised whether the family would have a way to challenge if there is a disagreement between professionals and the family.

Other topics discussed:

- There was general support around strengthening Getting It Right For Every Child.
- A number of group members expressed their disappointment that some members of the public has not understood the important messages around Getting It Right For Every Child and early support and expressed their desire to put this right.. It was thought that the messaging could be that GIRFEC is introduced as an entitlement for everyone, such as primary care entitlement.
- It was discussed that a joined up approach between all areas of children's services would be very welcomed and the general agreement was that the other areas must give GIRFEC messages out too.
- Some members of the group proposed changing current names/terms used in order to change public perception.

- It was discussed that financial difficulties could be overcome by co-ordinating resources better/more appropriately.
- Some confusion around the messages about GIRFEC may be caused by messages coming from different areas., One colleague suggested that there needs to be more consistent national messaging and that the provision of an online GIRFEC Hub could be useful.