



Glasgow  
Council  
for the  
Voluntary  
Sector



**Response from Glasgow Council for the Voluntary Sector (GCVS) to Education and Skills Committee Call for Evidence on:**

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

August 2017

**Glasgow Council for the Voluntary Sector (GCVS) has nearly 650 members, and is recognised by the Scottish Government as the core partner in the Glasgow Third Sector Interface, with responsibility for providing a wide range of development support and technical services to voluntary and community organisations across the city.**

**The GCVS 'Everyone's Children' project gives support to Third Sector organisations in Glasgow that provide services to children, young people and families. The project is funded by the Scottish Government and works in partnership with statutory partners and the Third Sector.**

## **1. Introduction**

GCVS and Everyone's Children are pleased to offer comments on the Children and Young People (Information Sharing) (Scotland) Bill.

The Everyone's Children project was primarily set up to promote and support Getting It Right for Every Child (GIRFEC) policy, and to deliver training and support to third sector organisations on the Named Person service. We have, therefore, always been advocates of the Named Person service and the principles of GIRFEC as an approach which puts children's rights at the heart of work that we do and centres on supporting the wellbeing of children and young people.

We are positive that a Bill, alongside a Code of Practice, and accessible training, support and resources, will remove any uncertainty which exists following the Supreme Court judgement on the Information Sharing aspects of the Named Person service. This will allow all organisations, practitioners and families in Scotland to contribute towards delivering GIRFEC and making sure every child's wellbeing, no matter who they are or where they live, is supported and upheld. We have the following comments to make on the Bill as it currently stands.

## **2. Specific comments**

### **2.1 ‘Duty to consider’**

Following the Supreme Court ruling, changes to the information sharing provisions have been made, with a ‘duty to consider if sharing information with or by the Named Person service will promote, support or safeguard the wellbeing of a child or young person’ in the current Bill replacing, a ‘duty to share information that may affect a child or young person’s wellbeing with or by the Named Person service’ in the 2014 Act. The Bill then also places a ‘duty to consider’ whether information can be shared while adhering to existing laws of Data Protection, confidentiality and human rights obligations.

The subtle changes to the wording of the legislation are necessary following the Supreme Court judgment on the 2014 Act. It is important to ensure that existing laws around Data Protection and confidentiality are complied with. We believe that the change to a ‘duty to consider’ whether sharing information will promote, support or safeguard the wellbeing of a child or young person, is a positive step as it gives those with the authority to share information time to reflect on the information that they have, ensuring that data is only shared where necessary, whilst also adhering to existing laws.

### **2.2 ‘Power to share’**

The Bill also provides that once all of the conditions are met (in terms of the duty to consider the sharing of information if it complies with existing legislation on Data Protection, confidentiality and human rights obligations), there is then the ‘power to share information’, differing from the Act which had a ‘requirement’ to share information. Again, giving those with authority to share information a ‘power’ to share rather than a requirement is a positive change, as it can prevent the wrong information being shared or frequent sharing of any information.

### **2.3 Consent**

As the changes to the Bill require that information is shared in a way that is compatible with existing legislation around Data Protection, confidentiality and human rights obligations, this means that the sharing of information in accordance with the Bill is consent-based.

Therefore, information will only be shared with the consent of the child or young person concerned or their parents (with exceptions<sup>1</sup>). This requirement is outlined in the Illustrative Draft Code of Practice. In our opinion, it would be useful for the requirement to be made clear on the face of the Bill.

Further, as the Bill provides that information sharing is consent based, this means that the child or family have the right to decline that information is shared. Information on this is found in the Illustrative Draft Code of Practice, but we believe it must be made clear to all concerned that children, parents and families have the right to prevent information being shared.

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<sup>1</sup> Illustrative draft Code of Practice on information sharing under Parts 4 and 5 of the Children and Young People (Scotland) Act 2014, p2

### **3. General comments**

#### **3.1 Accessibility**

At GCVS, we believe that legislation is necessary in order to take a lead in bringing about a real culture change and that passing this Bill will help to ensure all children's wellbeing is protected and supported in Scotland through the Named Person service. However, the Bill, and accompanying Illustrative Draft Code of Practice, written in technical language, are not easy to read and understand, and are therefore not accessible to all.

It is paramount that the Named Person service is understood not only by those with the authority to share information (teachers, health visitors, local authorities) but by all organisations working with children, young people and families – as well as children, young people and families themselves. At GCVS, an organisation who hold GIRFEC and the Named Person training sessions for third sector organisations, we are aware that training is only effective if materials are easy to read and concise. If the Named Person service is to be carried out effectively by all organisations, practitioners and families, it is crucial that the Bill and/or resources and guidance are written in language that is clear, concise and straightforward. A supporting document in the form of a nationally recognised summary, written in accessible language, would also be highly beneficial.

#### **3.2 Practicalities and guidance**

As mentioned, we believe that the Bill cannot stand alone and must be accompanied by a large-scale campaign of guidance, training and support to all organisations that work with children, young people and families, the children and families themselves, and particularly for those who have the authority to share information. It would be useful for guidance to include practice examples on various points raised in this submission, so that the information sharing provisions, such as around consent, can be clearly followed by practitioners and families.

#### **3.3 Wellbeing**

We believe it should be made clearer in the Bill that the Named Person service engages wellbeing indicators and not welfare or child protection concerns of the child or young person. If welfare or child protection concerns are present, normal local procedures must be followed quickly and this should be understood by all parties who are working with children, young people and families.

GIRFEC and the Named Person service provides a framework for early intervention and prevention, protecting and supporting children and young people's wellbeing. It also prevents wellbeing concerns being put forward through a process that is unsuitable for the concern at hand e.g. Children's Hearing or Child Protection procedures.

We also believe it is also important for the Bill to provide clear definitions of 'wellbeing' – a concept which can encompass a wide range of aspects in a child or young person's life. Following the Supreme Court judgement and subsequent uncertainty around the Named Person service, clarity is vital for the Bill to be effective and for the Named Person service to become the national standard in Scotland.

### **3.4 Rights of the Child and the Child's View**

Most importantly, we believe that for the Bill to truly reflect the fundamental principles of GIRFEC policy, must incorporate more aspects of the UN Convention on the Rights of Child 1989 (UNCRC). Namely, we believe that the child's view should be considered and ascertained at every step of information sharing through the Named Person service. Further, the child or young person should be an equal in their relationship with their Named Person. Only when the child, or parent/family, is fully involved in the process can we begin to work holistically and truly uphold GIRFEC principles in Scotland.

Finally, it would be useful for families to see that the Named Person service is one which could be used to make sure parent/carer/families views are being listened to. The Named Person service has the potential to be used as a two-way communication, allowing information to also be shared from the family to Named Persons, ensuring children and young people receive the right help at the right time.