

6 November 2017

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

To: Members of the Education and Skills Committee

During the passage of this Bill we have collectively expressed a number of reservations about it and continue to have concerns.

However we are writing to ask you to approve the Bill at Stage One in order to allow time for the Scottish Government to demonstrate its commitment to making improvements to it, and the proposed Code of Practice.

We know that the Committee supports the principles of Getting it Right for Every Child, which provides a word class practice framework for making sure that, if necessary, a child or young person can get the best possible support from children's services when needed.

Sharing information without consent has been a consistent stumbling block in making this framework effective. The complexity of multiple legislative guidelines means that many practitioners and their employers can be risk-averse and default to not sharing information if they are not confident that it is lawful. This could be disastrous and we urge the Committee to pay attention to the practitioners giving evidence who say that as a result of current uncertainty, this is happening.

We and many other children's organisations have argued that legislation and accompanying guidance must be clear, consistent and in line with UNCRC principles. We have expressed frustration with the Scottish Government that its current proposals have not delivered this. However, we recognise that it is now prepared to improve significantly its engagement with practitioners, to give Parliament a greater level of scrutiny and to support the children's sector with the costs of implementation.

We recognise that significant concerns remain. At this stage, we are prepared to work with the Scottish Government with the aim of producing a Bill and Code that can be supported by the majority of the children's sector and, ultimately, the Scottish Parliament. Our current support is contingent on the Scottish Government working effectively with the sector to produce revised measures that address the concerns expressed to date, satisfactorily.

However, we do believe the provision within the Bill of a duty to consider is needed. This will ensure that named persons, as well as other practitioners, will be compelled to consider the information they hold and whether the sharing of such information can "support, promote or safeguard" the wellbeing of a child or young person. In addition, it will also compel named persons and other practitioners to consider the consequences for the wellbeing of a child or young person if such information is not shared, as a result of consent to share that information being withheld.

This issue is too important not to give the process one more attempt to deliver clarity in the law on information sharing. We urge the Committee to pass the Bill at Stage One and to make clear its expectations to the Scottish Government that its commitments both to improving the legislation and its process of engagement, are fully met.

Jackie Brock, Chief Executive, Children in Scotland

SallyAnn Kelly, Chief Executive, Aberlour

John Butcher, Association of Directors of Education in Scotland (ADES)

Paul Carberry, Director for Scotland, Action for Children

Professor Jennifer Davidson, Executive Director, The Institute for Inspiring Children's Futures

Viv Dickenson, Chief Executive Officer, Crossreach

Jackie Irvine, Vice President, Social Work Scotland

Elizabeth May, National Co-ordinator, Children's Health Scotland

Councillor Stephen McCabe, Spokesperson for Children and Young People (COSLA)

Angela Morgan, Chief Executive, Includem

Satwat Rehman, Director, One Parent Families Scotland

Theresa Shearer, Chief Executive Officer, Enable Scotland.

