

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?