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Dear Clare,

Thank you for your letter of 12 June 2019. In the letter you asked for:

“the Government’s perspective as to how the framework for the functioning of independent bodies operates where multiple remits are engaged on a particular issue.”

This request was on the basis that petitioners raised cases to the Committee and others that cover human rights considerations, including rights of the child, the processes of local authorities, the processes of NHS Boards and also on the appropriate sharing and processing of data. The petitioners experience suggested to the Committee that where there are overlaps in responsibilities, or a number of remits are engaged in a multi-faceted case, a situation may be generated where no single body considers it can consider a particular case or issue with complete authority.

Given that the petition you were considering relates to operation of the Getting it right for every child approach I will focus my comments on that issue.

As the Committee are aware the governing framework in relation to information sharing, processing and its effect on families is complex and is spread across Scottish, UK and international law and conventions. The practice of information sharing within this framework is scrutinised and challenged for the public by a number of public bodies as outlined by the petitioners. These bodies have the expertise, responsibility, accountability and authority to investigate and where appropriate take action to protect the rights of families. It is my view that it is important that these bodies have focused remits for example in identifying interference with human rights, children’s rights or breaches in data protection rights.

I have reviewed the second submission to the Committee that includes details of the petitioners’ engagement with a number of bodies, particularly giving the example of an email that they sent to these bodies. It is difficult to understand the issue fully without having sight of all the relevant correspondence, however I take the petitioners main point to be that:

“In Scotland, it would appear that no-one is in fact responsible for the human rights of children and their families when it comes to GIRFEC/Named Person and the breaches that have occurred throughout its near decade of operation”

I disagree with this statement as it is clear that

- The Scottish Human Rights Commission (SHRC) have responsibility for human rights in devolved areas of responsibility
- The Equality and Human Rights Commission have responsibility for reserved issues in relation to human rights.
- The Children’s Commissioner’s Office remit is not in relation to human rights law but children’s rights
- The Information Commissioners Office (ICO) remit is in relation to data protection law.

The requirements for local authorities, health boards and others and how they relate to the Scottish Public Services Ombudsman (SPSO) in dealing with complaints is, in my opinion, also clear.

It is not my view that we should interfere with these specific remits. However I acknowledge that some issues may relate to different organisations and that it may be necessary to engage with multiple organisations.

Where the public have concerns about the responsiveness of public bodies to complaints they should raise these through the organisation’s complaints processes. If they are still not satisfied then of course they should raise these concerns with their member of the Scottish Parliament, their member of the UK Parliament or the Minister responsible.

JOHN SWINNEY