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## **Submission to the Education and Skills Committee, Scottish Parliament**

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

#### **Scottish Parent Teacher Council**

SPTC is delighted to respond to the call for evidence from the Parliament's Education and Skills Committee on the subject of the Children and Young People (Information Sharing) (Scotland) Bill.

SPTC is a long-standing independent parents group and a registered charity which provides support to parents and carers all over Scotland. We provide membership services to individual Parent Councils and PTAs, as well as offering advice and information to individual parents who have concerns about any aspect of the education of their child, or the wider education system. We support education professionals in developing their skills and understanding around effective partnership working with families and the wider community.

#### **1. Background**

SPTC has taken a stance against the Named Person provision in the Children and Young People's Act since the proposals first emerged some years ago. Our perspective was that the provision undermined the role of parents and would have a negative impact on the relationship between families and those professionals who work with them: without trust

between families and professionals, services and supports for families do not work effectively and have the desired outcomes for children and young people.

In short, the Children and Young People's Act stopped being **for** parents and started being **about** them and thus not only became unworkable but also, in the Supreme Court last year, was identified as being unlawful.

## 2. Key issues

There were a number of key issues which arose out of the Supreme Court's ruling: the way in which the Act breached individual rights relating to Data Protection, European Convention on Human Rights and confidentiality; the adoption of 'wellbeing' as a term within the legislation; the need to ensure parents were made fully aware of the voluntary nature of the scheme, and that not engaging with the service would not be seen by professionals as a risk factor.

## 3. Overview of the Bill

On reading the Bill and associated papers, including the Illustrative Draft Code of Practice for practitioners, and having read various commentaries also, various aspects of the Bill cause concern for SPTC:

- The concept of 'wellbeing' is still a feature and remains ill defined. The subjective nature of decisions made around 'wellbeing' therefore continues to worry us.
- In a large number of cases the Act refers to the sharing of data where this **could** benefit the wellbeing of a child or young person. This appears both soft and, again, open to interpretation. We believe the Bill should clearly identify that information should be considered for sharing only where **it is necessary** to benefit the wellbeing.

This clearly places the requirement on professionals to be crystal clear that sharing of information is only permissible where there is a risk of harm to a child.

- While it is mentioned that the service is voluntary, it is not front and centre of the Bill, which it should be.
- Informed consent to information sharing will become law in 2018: all those professionals working as and with the Named Person service will be required to wipe from their memories the provision in the CYP Act which placed a **duty** on them to share information, and replace that with an approach which is all about **partnership, agreement and consent**. The draft guidance and associated documents hint at this shift. In our view the message requires to be much more clearly enunciated and will have to be the focus of all communication with both professionals and families if this Bill is to be successful.
- Any statutory guidance will have to reflect all of the above. In particular the legislation regarding Data Protection which comes into force in 2018 and requires informed consent for the sharing of personal data places a very significant restriction on professionals in their work with families and what they will be able to do with their data. The draft indicative guidance provided by Government attempts to interpret the various pieces of legislation which professionals must work within: this is extremely complicated and is a potential minefield.
- We believe the Bill and any Guidance require to be much clearer on the duties of data controllers and the decision making process which is required if consideration is being given to data sharing without consent.

#### 4. Conclusion

The passage of the Children and Young People's Act has been a bruising and damaging one for Government and lead to a great deal of confusion and concern for families and professionals alike. Most critically it is undermined trust between families and those who are in roles which should provide help and support where it is needed.

We have always recognised that the intention of the Act was a benign one, but that it lost its way in the drafting of the Named Person service. A good deal of damage has been done however, and Government will have to work hard in the Bill and in any Guidance to remedy the situation.

The crucial role of parents in supporting and advocating for their children needs to be applauded: they have that role round the clock, 7 days a week and they deserve to be recognised and respected. Family circumstances – poverty, ill health for example – do not change that critical role, but do make it more difficult, and that is where some families may ask for help.

The very small number of families who harm or abuse their children are those where professionals should use the power they (already) have to ensure that children are protected from harm.

SPTC would welcome the opportunity to take part in planned evidence sessions.

Eileen Prior

Executive Director

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