

Deputy First Minister and Cabinet Secretary for

Education and Skills

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Education and Skills Committee

By email

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

Thank you for your letter of 29 November about the Information Sharing Bill.

I very much regret the decision that a majority of the Committee has taken. I note the issues the Committee has raised about the Code of Practice but the Committee is not being asked to approve the Code. It is simply being asked to approve the general principles of a Bill that will put in place the legislative framework that could approve a Code in the future. Indeed having listened to the views of Members of the Committee, the conclusions of the Delegated Powers and Law Reform Committee and several of those who had given evidence to the Committee, I have indicated I will amend the Bill to guarantee further Parliamentary scrutiny of the Code and a requirement for parliamentary approval of the Code prior to implementation. I have committed to establish an expert panel, chaired by an independent person, to guide and oversee the drafting of the code in a way that would garner the support and confidence of the sector as a whole. To fulfill my commitments, I confirm that Ian Welsh OBE, Chief Executive of the Health and Social Care Alliance, has kindly agreed to act as that independent chair.

In light of all of these measures, I do not believe that a delay to the Stage 1 process is necessary. The Committee could signal its support for the general principles of the legislation, to allow for in depth scrutiny and amendments at Stage 2 and 3, and for the work on the Code to proceed in parallel – without prejudice to a final vote on the content of an authoritative draft. I am prepared to be flexible around the exact sequence of this, in a way that respected the length of time to draft an authoritative Code, and Parliament's understandable concern for proper scrutiny. It is important to be realistic, however, that no such authoritative Code could be drafted in the open and collaborative way we intended until September 2018 at the earliest.

By taking the decision to suspend Stage 1 of the Bill, and therefore not to express support for the principles of the Bill, the Committee is casting doubt over the value of this process, and significantly delaying the implementation of the legislation. I fear that this could undermine stakeholder confidence in the principle of the Named Person approach, and prolong the uncertainty many in the sector feel in the aftermath of the Supreme Court's judgment of July 2016. This is to the detriment of implementing the wider principles of Getting it right for every child – an approach to which I had thought everyone in the Chamber subscribed. In my view it is imperative to continue to give practitioners the confidence that they can continue to share information, in line with extant legislation, in the interests of promoting the wellbeing of children. All interventions that undermine that confidence should be made with great care, and in full appreciation of the potential consequences.

For these reasons, I regret the decision the majority of the Committee have made, and urge the Committee to reconsider.

On the final matter you raise, the Government regularly discusses policy with all stakeholders, and will continue to do so in the interests of promoting better outcomes for children and families.

JOHN SWINNEY