

'Postcards from the Fringe'

Evidence from families affected by GIRFEC

Desired outcomes

- **Scrap the current bill.** Neither legislation nor policy can change the overarching legal framework or the consent threshold upheld by the Supreme Court
- **A public inquiry** into how unfettered data misuse became embedded in policy and practice, as admitted on the record by 'services' acting on unlawful government guidance
- **Access to justice** for those who have had their rights infringed and are still suffering harassment
- **Removal of legal immunity for professionals** who breach data protection law and act beyond their powers.
- **Fully consent-based model for any 'wellbeing' data processing**, from collection to deletion, with special protection from coercion for children in schools and 'care' settings
- **Recognition of parents as experts** on their own children
- **Urgent review of information governance and data security**

Background

A 'fringe' event was held in Edinburgh on 15 November to hear families' own testimony on the Children and Young People (Information Sharing) (Scotland) Bill, which is currently before the Education & Skills Committee of the Scottish Parliament.

Although the government has claimed the new bill will remedy the defects of the Children and Young People (Scotland) Act 2014, evidence from those adversely affected by the GIRFEC policy and the premature implementation of the named person scheme were excluded from Holyrood's invitation-only evidence sessions and focus groups.

Many vital questions were left unasked by committee members during the evidence sessions and families' own views and experiences were sidelined.

In order to redress the balance, Tymes Trust and the Scottish Home Education Forum issued their own call for evidence, which culminated in the submission of over 90 'postcards' of evidence.

'Postcards from the fringe' also allowed attendees-in-person to respond to questions that had arisen from the evidence submitted, and to raise other points for discussion.

A delegation of parents and children later visited the Scottish Parliament to deliver their evidence (see attached pdf file) to James Dornan MSP, convener of the education and skills committee.

Reflections from the fringe

Participants were asked whether they believed the new bill would satisfy the terms of last year's Supreme Court ruling, which struck down key provisions of the 2014 Act, and how they thought the government and parliament should proceed in the face of continuing opposition to its proposed legislation and an overarching policy framework which places state outcomes above citizens' autonomy.

Much discussion focused on the data sharing and undefined, subjective notion of 'wellbeing' on which the named person scheme and wider GIRFEC policy rely, and inconsistent messaging (support or mass surveillance?). Other recurrent themes were the lack of access to justice for those whose human rights had been, and continue to be, infringed by public and third sector bodies, and the lack of accountability of those who failed to get it right in the face of case law and legal opinion that had predicted the outcome of the judicial review.

Families believed their own evidence and experiences had been filtered out in order to push through legislation and a code of practice whose only purpose is to seek circumvention of the Supreme Court ruling. Persistence with a policy that depends on non-consensual data processing will therefore result in:

- another high profile court challenge, crowd-funding for legal action by individuals and pursuit of small claims via sheriff courts
- irrevocable loss of families' trust in public/third sector providers, which has already led to avoidance of services, refusal to disclose information that may be misused or lost, covert recording of all engagements with professionals, opt-out from health visiting, nurseries and, increasingly, schools
- avalanches of costly subject access requests (SARs)
- complaints to professional bodies
- naming and shaming of over-stepping professionals

Participants also identified a number of citizen-driven actions they were now willing to support without reference to 'services' or 'representatives' who have excluded them in favour of state-sponsored charities, professional bodies and quangos:

- further expansion of peer support, advice, advocacy and empowerment networks which are rapidly replacing conventional 'support' that has proved to be elusive or refused when requested, conditional upon disclosure of private information, or forced on unwilling families
- development of a rights-based super-network of existing independent support groups to share intelligence and expertise – several with complementary specialisms have already come together

- education and advocacy for parents and children to frustrate SHANARRI profiling by providing minimal information, withholding/withdrawing consent and insisting on written justification for every instance of data processing, encouraging regular SARs to check on professionals' activities, and formal complaints – all leading to rapid depletion of resources
- development of volunteer panel of experts in relevant disciplines to review contested assessments by non-specialists (e.g. educationalists' unqualified opinions on health matters and vice versa)

[The postcards submitted before and after the event sharing family experiences on an anonymous basis are available at: <http://www.np-fringe.uk/the-evidence>]