

Clare Adamson MSP
Convener
Education & Skills Committee
The Scottish Parliament
Edinburgh
EH99 1SP

15 January 2020

Dear Convener

Public Petition PE 1692

I understand that you have recently written to local authorities regarding their use of guidance relating to information sharing issued by myself in 2013. In your letter, you indicate the guidance should be replaced by the note clarifying how the judgment of the Supreme Court impacted upon information sharing practice in the child welfare sector in Scotland which I sent to all local authorities, area health boards and Police Scotland immediately following the verdict.

In that regard, you should note that the data protection legislative environment since has changed with the implementation of the General Data Protection Regulation 2016 (GDPR) and the Data Protection Act 2018 (DPA18) on 25 May 2018. Whilst the general principles outlined in the note of clarification remain valid, specific references to the Data Protection Act 1998 and Directive 95/46/EC are no longer relevant. That note is therefore outdated.

Under s121 of the DPA18, the Information Commissioner is required to publish a Data Sharing Code of Practice which "provides practical guidance in relation to the sharing of personal data in accordance with the requirements of the data protection legislation". A consultation on the draft Code was held in September 2019 and we anticipate launching the final version within the next few weeks. The Code will contain a chapter focussed on the sharing of children's data and we would expect all data controllers to follow the guidance contained therein.

Yours sincerely

Dr Kenneth Macdonald
Head of ICO Regions