

The Scottish Government is proposing new legislation as a result of the Supreme Court Judgment on the information sharing provisions in the Children and Young People (Scotland) Act 2014. The new legislation relates to the Named Person service, child plans, and particularly the sharing of information by practitioners for those purposes.

The Bill was laid before the Scottish Parliament by the Scottish Government in June. This means that the Bill is now subject to parliamentary process and scrutiny. The first stage of that scrutiny is led by the Scottish Parliament's Education and Skills Committee, and has begun with the Committee asking for the views of organisations and individuals on the [Bill](#).

RCN Scotland has responded to the Committee's call for evidence. You can read the full submission on the RCN Scotland website [here](#).

RCN Scotland continues to support the principle of the Named Person service and the GIRFEC approach. However, RCN Scotland does not support the Bill and believes that the Scottish Government needs to give more careful consideration to the merits of allowing best practice, in line with current Data Protection law and European Union law and a manner compatible with ECHR, to be the basis for information sharing provisions.

The Children and Young People (Information Sharing) (Scotland) Bill proposes a 'Duty to Consider'. This Duty would be placed upon organisations and would require them to identify information the sharing of which could promote, support or safeguard the wellbeing of the child or young person and to consider whether that information could be shared in compliance with the Data Protection Act and other relevant law.

RCN Scotland is concerned that this Duty would, in reality, require you, as a practitioner, to be able to evidence that you had considered whether there was information which could be shared, and also whether sharing such information could be done in line with the DPA and other relevant law. That is a burden which we believe is too great, and one which could lead to defensive practice and ultimately, therefore, undermine the very principles of GIRFEC and the Named Person service.

The illustrative [Code of Practice produced to accompany the Bill](#) does not the RCN believes go far enough to offer a clear definition of what is meant by a "Duty to Consider" and does not offer detail about how this Duty would be evidenced or recorded by practitioners, like you. No professional guidance has yet been provided to accompany the Bill. RCN Scotland is not assured that there is sufficient clarification concerning how this Code of Practice and future guidance fits with the NMC Code of Practice.

For these reasons, the RCN is not supportive of the Children and Young People (Information Sharing) (Scotland) Bill. The RCN believes that the proposals put forward in the Bill constitute weak and confusing legislation.

The submission makes clear that RCN Scotland continues to support the principle of the Named Person service and the GIRFEC approach but that it does not support the Bill and believes that the Scottish Government needs to give more careful consideration to the merits of allowing best practice, in line with current Data Protection law and European Union law and in a manner compatible with ECHR, to be the basis for information sharing provisions.

The submission also raises RCN's ongoing concerns around the vacancies in the health visitor workforce, and the lack of resources being given to teams to deal with the additional work which will come from a Scotland wide Named Person service.

The RCN will continue to engage constructively with the Scottish Government on the principle of the Named Person and how best the service can be implemented for children, young people, and families across Scotland. Having the right health visitor workforce will be key to that success and the RCN will continue to make that argument.

We hope that this is helpful in explaining the RCN's position. If you would like to discuss the matter further please do not hesitate to contact Lorna Green, Policy Officer, by email at Lorna.Greene@rcn.org.uk or by telephone on 0131 662 6135.