

**Scottish Parliament Education and Skills Committee
Children and Young People (Information Sharing) (Scotland) Bill
August 2017**

Background

The Royal College of Nursing Scotland (RCN) supports Getting It Right for Every Child (GIRFEC) and the principle of the Named Person. The RCN continues to see GIRFEC and the principle of the Named Person as a positive means of promoting, supporting and safeguarding the wellbeing of children and young people in Scotland.

RCN Scotland is aware that the Named Person service has been delivered in parts of Scotland as part of best practice and this has been done effectively and with positive outcomes. Evidence from Highland Board area has shown that good practice led to better joined up working and saw appropriate information sharing taking place to good effect.

To date the RCN has engaged fully, and constructively, with the Scottish Government and others in discussing the concerns that it continues to have around the readiness of resources made available through the Children and Young People (Scotland) Act 2014 to support those nurses, mainly health visitors, who will take on the Named Person role. RCN Scotland does not support the national implementation of the Named Person service until the right resources to ensure that the service works for children and young people, their families, and the professionals responsible for its delivery, are in place across Scotland.

In engaging with the Scottish Government to date the RCN has highlighted its concerns around the impact of additional burdens placed on professionals under any new legislation as well as the need for clear guidance and adequate resources.

RCN Scotland continues to support health visitors and all nursing staff within multi-disciplinary teams, to deliver high quality care and support to all children, young people and their families.

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

Whilst RCN Scotland remains committed to the principle of the Named Person, it does not believe that the “Duty to Consider” set out in the Children and Young People (Information Sharing) (Scotland) Bill adds value to the service. RCN Scotland is concerned that the Bill as drafted and the “Duty to Consider” which it imposes may undermine the principles of GIRFEC by resulting in defensive practice.

The illustrative [Code of Practice](#) does not 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. No professional guidance has yet been provided. 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.

RCN Scotland is clear that effective communication, which includes the sharing of relevant information where appropriate, is important in ensuring that children, young people and their families get help and support which is appropriate for them should they require it.

The Royal College of Nursing (RCN) is the world’s largest professional organisation and trade union for nursing staff, with members in the NHS, independent and third sectors. RCN Scotland promotes patient and nursing interests by campaigning on issues that affect members, shaping national health policies, representing members on practice and employment issues and providing members with learning and development opportunities. With over 40,000 members in Scotland, the RCN is the voice of nursing.

Health professionals, such as health visitors, are, however, already well practised and familiar with information sharing and how to do this in line with data protection law, European law and in a manner which is compatible with the European Convention on Human Rights (ECHR).

In the Scottish Government's [Policy Memorandum](#) to accompany the new Bill it is noted that, following the Supreme Court Judgement, alternative approaches were considered including, an option which would "commence part 4 and Part 5 of the 2014 Act without the information sharing provisions." RCN Scotland would have liked to see more careful consideration for 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. This option might have resulted in an outcome more conducive to supporting appropriate and lawful information sharing without additional duties for practitioners.

Despite the Bill's focus on organisational powers - in reality, an organisation cannot "consider" and cannot, therefore, fulfil the "Duty to Consider". RCN Scotland is concerned that this duty will still come down to individual professionals in a Named Person role. RCN Scotland does not wish to see health visitors exposed to professional risk as a result of weak and unnecessary legislation.

RCN Scotland assumes that a "Duty to Consider" will involve a requirement to evidence that the professional has considered the duty. RCN Scotland does not believe that, in addressing the Supreme Court's Judgment, the Scottish Government should place an additional bureaucratic burden on health visitors. The necessity to evidence consideration of the duty will be time consuming and will lead to professionals having even less capacity to work with children, young people and their families. Such an outcome would go against the principles of GIRFEC.

RCN Scotland does not see the added value of the proposed new legislation. RCN Scotland finds this "Duty to Consider" vague and confusing in terms of what information sharing procedures and standards, which are not already in place through existing legislation or as professional guidance, are expected from practitioners.

Defensive practice

RCN Scotland does not want to see members undertaking defensive practice as a result of weak legislation which puts professionals under a "Duty to Consider". RCN Scotland believes that legislating for such a concept could result in the duty becoming no more than a tick box exercise. This would ultimately serve to undermine GIRFEC and get in the way of practitioners undertaking meaningful practice to support children, young people and their families.

RCN Scotland believes that, with the right guidance and training, professionals can be expected and trusted to deliver high quality, consistent Named Person services in line with good practice. The Named Person service is already being delivered in parts of Scotland in this way.

From conversations with stakeholders in these areas, RCN Scotland knows this has encouraged practitioners to get better at information sharing and it has opened up positive communication channels.

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However, RCN Scotland is concerned that the controversy which has accompanied the Named Person service and the negative media coverage has the potential to damage this good work and undermine the service and the principles of GIRFEC.

Child protection

RCN Scotland takes child protection seriously and is fully committed to keeping all children and young people safe from significant harm. RCN Scotland is clear that the Named Person service is not child protection. RCN Scotland believes in GIRFEC's commitment to offering children, young people and their families proactive support. Through supporting the wellbeing of children, young people and their families in line with the principles of GIRFEC, the Named Person scheme is a valuable part of the prevention and early intervention agenda. However it is vital to recognise and respect that this support is optional and children, young people and their families are under no obligation to engage with the Named Person service.

Too often the Named Person role has been conflated with child protection and RCN Scotland believes that too little has been done by the Scottish Government to address this confusion effectively. Health visitors cannot do an effective job if families are anxious or suspicious about the scope of the day-to-day support they offer.

Resources

For as long as RCN Scotland has been engaged with Named Person, it has repeatedly raised the issue of resources as a key concern. Without the right workforce in the right place, at the right time, there is a substantial risk that the Named Person will not be able to fully promote, safeguard and support the wellbeing of children and young people.

Health visiting has one of the highest vacancy rates (7.4% as at 31 March 2017) within Scotland's NHS. As such, health visitors are under enormous pressure and face significant capacity issues. The Named Person role brings additional pressures to an already stretched workforce. RCN Scotland does not support the national implementation of the Named Person service until the right resources are in place across Scotland.

RCN Scotland is concerned about the rate of progress in ensuring the additional 500 health visitors (as promised by the Scottish Government during the passage of the Children and Young People (Scotland) Act 2014) are in place. While there has been an increase in health visitors in all age groups under the age of 45 over the last 2 years, just under half of the health visitor workforce is aged over 50. It is therefore vital that steps are taken as a matter of urgency to ensure there are enough health visitors for the future.

Given that there are a number of newly qualified health visitors entering the workforce it is vital that appropriate and timely clinical support and supervision is available to all staff undertaking a Named Person role and that there are enough practice teachers to ensure the growth of this workforce. All staff undertaking a Named Person role will also need to have time to access CPD, education and training, with appropriate backfill and cover in place.

Additionally, RCN Scotland is concerned that current infrastructure systems are not fit for purpose to support the Named Person to undertake the duties of the role. This includes IT systems and equipment as well as dedicated administrative support.

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Conclusion

RCN Scotland fully supports the principle of the Named Person for children, young people and families across Scotland. It does not, however, support the legislation brought forward by the Scottish Government in the Children and Young People (Information Sharing) (Scotland) Bill for the reasons stated above relating to the “Duty to Consider”.

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.

In the meantime, RCN Scotland considers a fully resourced and trained workforce to be a higher national priority than weak legislation on information sharing.

If you require any further information please contact Sarah Atherton, Public Affairs Officer, by email at sarah.atherton@rcn.org.uk or by telephone on 0131 662 6172.