

Cross Party Group Children and Young People
Tuesday 24th September 2013
13.00 - 14.30
Committee Room 1, the Scottish Parliament
Chair: Marco Biagi MSP
Named Person Provisions

Attendees

Jayne Baxter MSP
Marco Biagi MSP
Kezia Dugdale MSP
Alison Johnstone MSP
Fiona Mcleod MSP
Anne McTaggart MSP
Bill Alexander, Highland Council
Anela Anwar, Roshni
Mark Ballard, Barnardo's
Salena Begley, Family Fund
Laura Bennison, Children in Scotland
Eric Carlin, SHAAP
Jean Carwood-Edwards, SPPA
Hsiung Shan Chi, University of Edinburgh
Anna Chrystal, SIAA
Alison Clancy, Parenting across Scotland
Sara Collier, Children in Scotland
Mo Colvin, RNIB Scotland
Kathleen Deacon, Scottish Marriage Care
Brandi Lee Lough Dennell, LGBT Youth Scotland
Nancy Fancott, CCPS
Maurice Frank, Personalised Education Now
He Gao, University of Edinburgh
Ross Gilligan, Children in Scotland
Emma Grindulis, Together Scotland
Juliet Harris, Together
Kim Hartley, RCSLT
Fiona Henderson
Kate Higgins, Children 1st
Patricia Hutchison, CLIC Sargent
Elinor Jayne, Royal College of Nursing Scotland
Alan Jones, SDEP
Fiona Jones, CI@n Childlaw
Nico Juetten, SCCYP
Charlene Kelly, Relationships Scotland
Ruth Kerracher, Article 12 in Scotland
Rachel Le Noan, Down's Syndrome Scotland
Sara Lurie, Fostering Network
Kirsteen Mackay, University of Edinburgh
Caroline Macleod, RNIB Scotland

Ceit Anna MacLeod, Faculty of Advocates
Marion Macleod, Children in Scotland
Brian Magee, COSCA
Carrie Manning, The Prince's Trust
Garry McGregor, Befriending Networks
Lesley McNab, CHAS
Lewis McNaughton, Scottish Parliament
Louise Morgan, Carers Trust
Jennifer Mowat, Enable
Jill Morton-Pender, University of Edinburgh
Mary Mitchell, University of Edinburgh
Paul Mullan, Quarriers
Eloise Nutbrown, Save the Children
Siyuan Qin, University of Edinburgh
Rania Qussasi, University of Edinburgh
Sarah Paterson, Youthlink Scotland
Helen Reilly, BMA Scotland
Lisa Ross, Mindroom
Janys Scott, Faculty of Advocates
Kay Steven, Action for Children
Chelsea Stinson, Children's Parliament
Pauline Ward, Scottish Parliament

Apologies

Drew Smith MSP
Kim Atkinson, Scottish Sports Association
Anne-Marie Barry, SHAAP
Jackie Blair, Spark of Genius
Rozanne Chorlton
Morag Coleman, Families First St Andrews
Rhona Cunningham, Fife Gingerbread
Jennifer Drummond, Children in Scotland
Barry Fisher, The DofE Scotland
Laura Forster, SCIS
Gina Freeman, Eczema Outreach Scotland
Margot Gillon, City of Edinburgh Council
Rob Gowans, Scottish Youth Parliament
Mark Griffiths, Shelter Scotland
Martin Hunt, Tartan Silk
Keith Irving, Living Streets
Caryn Kerr, Princes Trust
Richard Knott, Salvation Army
Sharon McCluskie, Play Scotland
Joe McConnell, CYCA
Vicky McGraw, West Dunbartonshire Council
Felicity Mehendale, Royal Hospital for Sick Children
Muriel Mowat, SIAA

Alison Newlands, Scottish Council of Independent Schools
Mags Powell, Stable Life
Virginia Radcliffe, Licketyspit
Katie Rafferty, National Deaf Children's Society
Jayne Scotland, NHS Lothian
Clare Simpson, Parenting across Scotland
Maggie Simpson, SCMA
Megan Wilson, Sense Scotland
Shirley Young, Changing Faces

1. Welcome

Marco welcomed everyone to the meeting and thanked everyone for keeping in touch over the summer and making suggestions for future meetings. He also noted the MSPs in attendance – Kezia Dugdale MSP, Alison Johnstone MSP, Anne McTaggart MSP, Jayne Baxter MSP and Fiona McLeod MSP.

Marco acknowledged that one of the key topics for the group this year will be the Children and Young People Bill, which is currently before the Education and Culture Committee at Stage 1. The named person provisions in the bill have been discussed in all the committee sessions so far, and there will be a debate in the chamber on this issue tomorrow (Wednesday 25 September 2013), led by the Conservatives. This meeting is a good opportunity for those Cross Party Group members who are not appearing before the committee to have their say on these issues.

Marco welcomed the speakers.

2. Children and Young People Bill – Named Person

2.1 Mark Ballard, Barnardo's

Mark showed the group a power-point presentation that aimed to introduce the idea of the named person and ensure that everyone present was aware of the thinking behind it.

He explained that the role of the named person is not a new idea – it is part of Getting it Right for Every Child (GIRFEC), and has been around for a number of years. The idea first emerged in 'For Scotland's Children' (2001) from the Liberal/Labour coalition, and has subsequently been adopted by the SNP. The set of principles around the named person have been key.

There is a consensus that if we really want to tackle antisocial behaviour etc then early intervention is the way to do it, not waiting for problems to develop and then dealing with them. This approach has also been supported by the Chief Medical Officer, Harry Burns and John Carnochan (former Head of Violence Reduction Unit) and in reports such as 'Joining the Dots' and the Christie Commission Report in 2011. It is also the basis of the wider GIRFEC

approach, which covers everything in a child's life, and is also reflected in the UNCRC Articles and the GIRFEC wellbeing indicators.

The named person would work within universal services, and in a crisis could refer on to a specialist service. The named person stands as the bridge between the child and the specialist, ensuring that information is shared and that any issues are handled properly. They would have an existing relationship with the child and would be the first point of contact. So often the question is asked – 'why didn't somebody do something?', and the named person would ensure that every child has 'someone'.

The named person would be an existing professional in the child's life – a health visitor, head teacher, depute head teacher or guidance teacher. This person would know who to contact, would be able to pull information together and judge if there is a problem or if the issue is contained.

The Bill is not introducing anything new – it is a move from guidance to legislation, which promotes multi-agency working. There are still some questions regarding the practicalities: will there be consistency in the delivery of the named person function? Will support be consistent? How will this role fit in with other responsibilities? How does the Lead Professional fit in? and how does the role change for differently aged children? These are all questions around the wording of the bill. Barnardo's have seen the difference that it can make, and the importance of preventative spending and early intervention.

2.2 Bill Alexander, Director of Health and Social Care at Highland Council

Highland Council are a pathfinder area for GIRFEC, and Bill shared information on how the named person worked in practice with community based child health organisations in close contact with the third sector.

Bill shared that the reaction in the Highlands to the named person provision was positive, and that it works. Complaints were not focused on the idea that having a named person is wrong, but when they are not there. Bill described how most children have troubles at one time or another, and that core services will see them through. When children do need support the named person will be able to support them as soon as possible, without the bureaucracy. This approach empowers the key professionals.

Bill observed that it does work in practice – a named person was not part of the original requirement but has evolved from practice, and is supported by parents and professionals and their relationships. Much focus has been on social workers and psychologists but the most important relationship in child's lives is often with teachers, midwives or health visitors. The role of the named person is to do what a good teacher, midwife or health visitor would have done anyway. What this legislation would do is make them valued, and would mean

that their opinion was taken seriously. A head teacher could call on a social worker and get the problem dealt with.

It is important to remember that the named person is not the same as a lead professional. The named person deals with universal services, with occasional additional support and the authority to prompt further action. If the issues get more serious then social work would get involved, with a lead professional who would have a one to one relationship with the child.

Bill concluded that families only complain when they don't have a named person, that professionals say that it works, and like the approach to information sharing, because sometimes when people do not know who to talk to they may talk to the wrong people. As a result of this the Highland Council have seen the number of exclusions coming down, the number of looked after children coming down, and smoking and drink abuse coming down.

2.3 Janys Scott, Faculty of Advocates

Janys took us through some of the legal issues and concerns with regard to the named person. She began by highlighting that there are essential criteria in what makes a good law. These are that it is necessary, clear, effective and that negative outcomes are kept to a minimum. In the interest of creating the best possible law these factors need to be considered. Janys then looked at the named person provision in the bill, and discussed it in the context of these key points.

Firstly, is it necessary? Does every child need to have a named person? Parents have the responsibility to safeguard their children and are responsible for their education – as stated in the *Children in Scotland act*. In clause 19 of the Bill there is a change in emphasis in that there is an increased role of the named person in the private life of the child. The European Convention on Human Rights Article 8 states that any state interference into a child's private life should be necessary and proportionate: is there a pressing need for the interference of the named person? Another point that Janys raised was to question whether the provision of the named person required legislation. Legislation could turn out to be a blunt instrument. If the job is being done well then does there need to be legislation too? Once the Bill is in place named person functions could be extended at a later date.

Secondly, is the bill clear on the provision of the named person? Children with additional support needs would already have a coordinated support plan, and the term 'named person' is used in mental health legislation. Another question of clarity that Janys raised is concerning the age-range of the provision of the named person – will a young person have a named person to the age of 18? Sometimes young people aged 16 and 17 are regarded as children and sometimes not. If a young person can marry at 16, what place will the named person have in that relationship?

The third question that Janys addressed was regarding whether the Bill was effective. The Bill states that the named person or service provider must share information that might be relevant. Thus the named person has an obligation to share information on the child's life - but the child also has a right to a private and family life. Janys expressed concern that the provisions for the named person must be necessary and proportionate. The data protection Act safeguards sensitive information: data collected for one purpose can't be used for another; information must be kept up to date, etc. Data sharing rights can be balanced as appropriate data sharing is accounted for. A problem that may arise as a result of this is that young people may be put off from seeking advice if they are concerned that information is being passed on to others

Janys concluded by highlighting the need for the legislation to do what we need it to do, and not get in the way of the work that is being done anyway.

2.4 Fiona Jones, CI@n Childlaw

Fiona Jones heads up the policy function for CI@n Childlaw. She spoke to the group about concerns they have about the practical implementation of the named person section of the bill. They welcome appropriate sharing of information. The Government did not originally intend to legislate for this but now the Bill places the duty for information sharing on the named person. They are concerned about section 26 and 27 of the bill, covering information sharing and disclosure information.

Section 26 places duties to share concerns with the named person if necessary, and also for the named person to share information with relevant people. Concerns that fall short of being child protection issues must be shared for the full picture of a child's wellbeing to emerge. Section 27 overrides the duty of confidentiality. Fiona suggested that there needs to be a privacy impact assessment as it may be possible to allow for information sharing to exist within existing frameworks.

Fiona also referred to article 8 in the EU Convention on Human Rights, which states that everyone has a right to respect for private and family life - interference must be lawful, proportionate and necessary. She also mentioned article 16 of the UN Convention on the Rights of the Child, which states that every child has the right to privacy and that the law should protect the child's private, family and home life. She then explained that questions need to be asked about what information it is necessary to share, for example in the medical profession. When making decisions to share information the professional must take into account the protection of data and respect the privacy of patients and preserve confidence in the medical profession. If the Information Commissioners guidance is adhered to then there is unlikely to be a breach of data protection.

Fiona expressed concern that there had been no consultation on the data sharing part of the bill, and that the privacy impact assessment is out of date. There needs to be a balance between the need to share and the child's privacy.

There is no threshold defining what information is to be shared in the bill. This could cause problems in that children may choose not use confidential services, as they are afraid their information may be shared regardless. There is also a concern that adults may share more information than is necessary. Amongst all this important information may be lost. Also, there is no national training for the named person on offer, but there is a need for consistency. There is also a fear that there is a lack of capacity for the change, when there is nothing in current law that prevents information sharing.

3. Group Discussion

Maurice Frank from Personalised Education Now was concerned that if the named person was the child's teacher there could be a possible conflict of interest, with other figures that could potentially interfere with what are the child's best interests. Mr Frank was concerned that professional opinion could be proved wrong, and that children may be put in a position where they are afraid to speak their minds.

Kim Harley from the Royal College of Speech and Language Therapy voiced concerns that all the power was being given to one person. She explained that the named person would be judging information that they might not have a full understanding of, and that when making decisions on what services a child needs they may get it wrong. If the named person is not aware of certain indicators of need then they may not ask for the relevant services. Also, they may not have a full understanding of the services on offer for dealing with the child's needs.

Marion Macleod from Children in Scotland argued that mechanical and logistical issues needed to be taken into consideration, particularly taking into account what is working for families in the Highlands, and what is making a difference. She asked the question about whether it was the position of the named person that was successful, or if it was the better coordination of early intervention. Marion was concerned that though children's lives could be improved, child protection issues would not be dealt with – she was concerned that the provision of a named person may become an excuse for complacency, with people sitting with information but not acting on it, and felt that it would not be a solution to the problem of people not being able to recognise the issues that are in front of them.

Sara Lurie from the Fostering Network was concerned for children in foster care or in transitions, that they may experience gaps and have difficulty in working out who their named person is. Also, she mentioned that where teachers are the named person there could be difficulties that arise when schools are closed. She is concerned that there may be a lack in understanding of different roles and who to report to.

Anila from Roshni highlighted that there were issues for travelling communities and for holiday periods, where early intervention may be difficult to enact. She also pointed out a lack of awareness among frontline staff of the cultural needs of minority ethnic communities.

Ruth Kerracher from Article 12 raised concerns regarding confidentiality and information sharing, especially in relation to the Gypsy/ Traveller community. Would NGOs who work with the community be obligated to share information or take on a role such as a named person (that they normally would not have taken in their role). Not only would this be a confidentiality issue but could fragment existing positive relationships if the community feel mistrust and prevent them from engaging with support/ services in the future.

Bill Alexander responded by telling the Group how information sharing had worked in the Highlands – he highlighted that as soon as a crisis occurs the child is referred straight to child protection and a Lead Professional, and that the named person is only concerned with universal services and early intervention. For example, a looked after child would have a lead professional, not a named person. Bill also emphasised that information sharing would stay the same, and that current good practice was being put into legislation. He argued that no one can defend the clumsy and haphazard way that information is sometimes shared at the moment. He noted that the public are no longer patient and that the lack of clarity needs to be sorted and rooted in practice. Bill went on to say that children in need are identified through a range of measures, and that there is no 'threshold of harm' – at risk children don't always stand out. This means it is important to look at the whole child. Professionals would not share information unless they needed to – the named person's role would be to support and advise, and they would usually have the consent of the family. The only time when they might share information without consent would be in fear of harm for the child. He then emphasised that the intention of this piece of legislation is to present best practice across the board.

Mark Ballard then spoke about how in the debate about early intervention there was a consensus that it was needed in universal services. This is about putting guidance into legislation, as the named person would have to share information with voluntary/public bodies "where appropriate". Mark acknowledged that this was a clumsy phrase, and that the named person would need to know who all these people are. He stated that there is a lot that needs to be cleared up in stage 2 of the process – there needs to be a statement on children's rights, and an explanation on duties to share information. He also suggested that there should be a Child Rights Impact Assessment of the whole Bill. Another point that Mark made was that if professionals need to make these decisions they may need training to ensure that they notice this. Legislation would ensure that there is training for this. It will also ensure that it is taken up in every local authority area.

Marco asked the group about the child's role in influencing who their named person is.

Kate Higgins from Children 1st expressed her overall concern over how the voices of parents and carers were missing from the bill more generally, and more widely in GIRFEC regarding the child at the centre and the voice of the child. She is concerned that there is no provision for advocacy and feels that the Bill should pick up on that. Children should have a role in choosing who is their named person, and they may have difficulty with a teacher as named person, as they need to be able to trust them.

Bill Alexander responded to this and Maurice Frank's earlier comment about how the family needs to trust the named person as the named person is the front end of the state system – if a problem arises there should be provision to deal with it and make a change. The named person is not an advocate, but the family and child do have the right for advocacy.

Action Points and date of next meeting

It was agreed that the sharing of views around the named person was sufficient at this point. Marco advised that the next meeting would be on 30 October and that the agenda would be circulated as soon as possible. The topic will be the Scottish Government's refresh of sex and relationship education guidelines.