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GIRFEC Engagement on Information Sharing
Meeting with Unions/Professional groups representing Medical Practitioners and Minister for Childcare and Early Years
2 November 2016
Scottish Government Note of Meeting

1. Welcome and Introductions

The Minister welcomed the group to the meeting and explained that the purpose of the meeting was to hear the views of Medical professionals, unions, professional bodies and the regulatory body on the Named Person policy with respect to information sharing.

2. Setting the scene

A summary of the Supreme Court judgment was provided and an update on the engagement activity so far.

3. Organisational Perspectives

The Minister invited each of the organisations to share their thoughts on information sharing with and by the Named Person service and offer their initial thoughts on the Supreme Court judgment. The key issues raised were:

General Medical Council

- Support the policy intention of ensuring that children and families have easier, more coordinated access to support. Also want to help ensure that the arrangements for achieving this do not operate in a way that might undermine their trust in a confidential health service.
- Greater clarity is required for medical practitioners and the public on the benefits of sharing sensitive medical information with a Named Person, and how any shared information would be used by them to support families and how it would be protected from any inappropriate additional sharing.
- Policy aims may be achieved with greater support for spreading current good practice (under existing Law) which relies on seeking consent to share information rather than a duty to share.
- There is a strong professional obligation on doctors to start by seeking consent to share confidential information, even in cases where it is legally permissible to share without seeking consent. It is usually better in terms of maintaining a positive doctor/patient relationship to share information with the agreement and support of the individual.
- Whatever model is put in place, the provisions should support collaborative working with children and parent(s). This is key to children who are experiencing more serious challenges (involving neglect or abuse) feeling able to disclose issues to healthcare professionals.
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- Need clarity about what constitutes a wellbeing concern (that would be subject to a mandatory duty), to distinguish it from a ‘minor concern’ about child neglect which is not subject to mandatory disclosure.

Royal College of General Practitioners
- Holistic wellbeing requires to be explained in a way that is consistent with Health sectors understanding of wellbeing.
- Mandatory reporting of concerns is not in accordance with a consent focused approach.
- Medical profession is trusted, much of this comes from confidentiality.
- Concern that people may not engage if perception that confidentiality is being eroded.
- GP’s also have other responsibilities as data controllers.
- Accountability; I.T. must be fit for this purpose and need clarity about what happens to data once it has been shared.
- Greater clarity required about Named Person role and responsibility.
- Consideration of the wider family and how data sharing affects them.

Royal College of Psychiatry
- Challenge when professional judgement is not part of the process.
- Currently work with the premise that consent is asked for to share information about individuals and professional judgement as to when that is not required, additional clarity/ guidance would be helpful as to when consent is not required.
- Important to understand whose information it is e.g. if information disclosed by a child/ young person that relates to others e.g. their parent
- Need to make sure we are consulting with young people and the information commissioner (Minister confirmed we were engaging with these groups too).

Royal College of Paediatrics and Child Health
- Sharing information is nothing new, supportive of sharing relevant and proportionate information regarding wellbeing and clear that what was being done before was being done well but not consistently.
- Lack of information sharing is a key issue in significant case reviews but there is also a concern that not knowing what to do with the information could be a problem. Future guidance needs to be clearer on information sharing to help improve practice.
- Role of Named Person needs to be more clearly defined.
- Need to be comfortable with what wellbeing means.

British Medical Association
- GP’s are the most likely group of health practitioners to share adult information. Clarity required in any future guidance about level of concerns that would trigger consideration of information sharing when consent is required and when sharing may be permitted without consent.
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- Need to be careful that a requirement to share does not result in non-engagement with services, important that scope is provided for professional judgement.
- Consent, if consent is being sought specifically in relation to sharing with the Named Person then clarity is needed about what the individual is giving consent for and where will the information go?
- Some conversations may be constrained if there is a requirement to share information with the Named Person if a threshold is applied and met.
- GP’s as data controllers can be fined if sharing information inappropriately.
- It is clear to share information when it concerns welfare and risk of significant harm but clarity is required when wellbeing concerns are at a lower level.
- Putting this in law may remove some jeopardy for GP’s but it is difficult to get a legal definition without providing for professional judgement.

Greater Glasgow and Clyde Health Board
- GP Pilot explored how GP’s could work within a developed GIRFEC approach in a geographical area/education community.
- GP’s have been appropriately sharing sensitive information under existing Law for a long time, seeking consent appropriately, so they are good at this. GGC worked with schools and GP’s to develop relationships to agree what wellbeing meant and how information should be shared with the Named Person. Operationally worked on understanding roles, responsibilities and relationships.
- It was unusual for one group to be concerned about children and others not to have those concerns too.
- Child protection is often an immediate concern but many wellbeing concerns can affect a child over a long period resulting in a significant impact on and harm to the child.

Public Health Consultants
- Public Health focus is on population health.
- For numbers of Child Protection concerns being raised Scotland is roughly mid-table internationally.
- There is a need to be mindful of how we balance rights of parents and the rights of children, there is evidence that the prevalence of adverse needs are higher in children compared to adults in families.
- There is a substantial number of children in Scotland where levels of need are high even for a fluctuating time period and there is a balancing issue of when to offer support as they move in and out of need.
- Need to raise the profile of understanding of how adversity affects children.
- Families can benefit from relevant and proportionate information sharing.
- Consent should always be sought except in exceptional circumstances.
- There is a need for awareness raising of benefits and processes in relation to information sharing and the named person with the public as well as professional awareness.
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- Need to take back some of the public agenda, need to explain clearly “this is not anti-parent and is pro-child”.

**Office of Chief Medical Officer**

- There is a desire for more developed guidance or a code of practice on information sharing however acknowledge difficult to meet everyone’s expectations.
- Work on skills and practice already being done well as part of normal professional training and development.
- Wonder if we need to explicitly advise that we may be sharing—use and role of privacy notices.
- Opportunity to say “we value children’s lives and are working hard to try and raise wellbeing”.

**4. Exploring engagement questions set out in the discussion paper**

The Minister facilitated a round table discussion where the group considered the questions set out in the engagement paper around the following themes:

**Information Sharing**

- what safeguards can be put in place to ensure only relevant and proportionate information shared?

**Consent**

- When is it appropriate to proceed without obtaining consent?

**Wellbeing**

- How do we align understanding to read across all areas?

**Information Sharing**

- Clarity required over Named Person role, what they can provide and benefits of sharing info with them.
- A greater understanding of benefits of a Named Person can encourage sharing by professionals as well as being clear about the gains to the family.
- Mental Health Act may provide some guidance in describing pillars to have in place when sharing information
  - Necessity
  - Proportionality
  - Aims/Objective
  - Consent
- Named Person is a helpful clear point of contact for family to be directed to for help and to go to for help involving other practitioners as required, also help sometimes for practitioners to engage with in deciding best way forward.
- New provisions should not disempower professional judgement.
- Not having a duty to share could be an option and to have this more as an obligation to consider sharing.
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- Important that GP’s not seen to be sticking their nose in to people’s lives.
- Confidentiality key for Health, need to overcome perception that this is not the same elsewhere; health professionals working with schools report a good understanding of confidentiality and the DPA in these organisations.

**Wellbeing**

- Difficult to describe in legislation but clarity is required, including around sharing wellbeing concerns with the Named Person.
- Balance required; too rigid a definition with a low threshold may create more sharing with little added value – too high will leave children and families without the help they need.
- Needs room for professional judgement.
- Clarity about wellbeing from health perspective.
- Need to drive forward the message that someone is looking out for children and giving them support early enough.
- Oblige GP’s and others to think about wider wellbeing beyond health and safety.

**Consent**

- Should be sought in all but exceptional cases but need to be clear what happens to the information.
- Greater emphasis on explaining why a practitioner is seeking to share information relating this directly to potential benefits for the child.
- This approach has been well received and generally parents have accepted the need to share when it has been explained. Requires an honest and open approach.
- Clarity that information is being shared for a purpose and there is an expectation that some form of action will result.
- Possibility for GP’s to recommend/suggest parents engage with Named Person, offering the Named Person.