

## **The Scottish Out of School Care Network**

### **Joint Inspection of Services for Children and Inspection of Social Work Services: Response to draft Bill and draft regulations**

#### ***Introduction***

The Scottish Out of School Care Network (SOSCN) is the national organisation promoting the development of good quality, accessible and affordable, care, play and out of school hours learning services for children of school age in Scotland.

The work of SOSCN is underpinned by a firm commitment to the UN Convention on the Rights of The Child, especially Article 31, the Right to Play.

We welcome the opportunity to comment on the Joint Inspection of Services for Children and Inspection of Social Work Services draft Bill and draft regulations.

#### **General Principles of the Bill**

The Bill provides powers to enable joint inspections of services for children. The Bill addresses the need for arrangements to ensure that those conducting inspections have the powers to share information, including personal information.

If inspections in the future are to be able to assess how well different services work together, and to evaluate outcomes for children, it will be necessary to permit agencies to share information.

Therefore the general principles of the Bill should be supported, provided that the regulations provide appropriate safeguards regarding confidentiality.

#### **Advantages of new legislation**

The advantage of the new legislation is that it states clearly that inspectors have powers. This clarifies the situation for service providers and their employees. The fact that inspectors have such powers, the safeguards in place regarding confidentiality and the circumstances in which they would be used can be explained to young people and their parents. In most cases, consent can be given for information to be shared in appropriate circumstances. In many cases concerns about confidentiality are easily overcome if there is clarity in the first place about who can have what information and in what circumstances. Service providers and employees need to have the reassurance that they are not in breach of data protection or other legislation if they share information with an inspector.

#### **Consultation**

It appears that the greatest areas of difficulty are around the sharing of the information which health services hold. This is understandable, but the need to ensure that health services can work effectively with others does imply the

need for joint inspection. If inspections are to effectively evaluate the outcomes for children, then there will be a need to ensure that inspectors can engage meaningfully with the information which health professionals have about individual children.

It is understood that representatives of health professionals and the Care Commission have been able to meet and discuss the matters of concern with the relevant Ministers and officials. The letter to those who attended from Andy Kerr, Minister for Health and Community Care and Robert Brown, Deputy Minister for Education dated 11<sup>th</sup> October 2005 sets out the areas of common ground, the acceptance of the need for protocols and the work which has to be done.

Concerns, about the basis on which information can be passed on to others, need to be addressed through regulations.

### **Regulations**

The draft regulations address the need to define what is health information, what is confidential health information, the limits to what can be shared and the need for safeguards to prevent unauthorised processing of confidential health information.

The draft regulations set out how inspectors deal with confidential health information. A protocol for Access to Health Information will define the circumstances in which information can be shared, measures to ensure records are anonymised, limits to what material can be kept and for how long.

A further protocol on the inspection of children's services more generally is to be developed reflecting the outcomes of the current consultation by HMle on *A Common Approach to Inspecting Services for Children and Young People, October 2005*.

As explained in the letter from Andy Kerr and Robert Brown, referred to above, inspectors are trained professionals carrying out their work in line with their obligations to their employers to maintain confidentiality and professional standards.

**The draft regulations provide, with the draft protocols, the necessary safeguards with regard to confidentiality. Therefore the regulations and the Bill should be supported.**

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