



## **Clan Childlaw Intervene in Supreme Court proceedings to redress the balance between the Sharing of Information and a Child's right to Privacy**

By Alison Reid, Principal Solicitor, Clan Childlaw

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A charity that gives legal help to children and young people in Scotland has intervened to assist the Supreme Court in the ongoing judicial review proceedings regarding Named Person provisions of the Children and Young People (Scotland) Act 2014. Clan Childlaw is of the view that:

(1) the 2014 Act is imprecise in setting out the conditions for disclosure of confidential information, creating real, practical difficulties for professionals providing named person and other services; and

(2) the balance between sharing information amongst professionals and the ability of a young person to access confidential services has shifted too far towards the sharing of information,

resulting in an unlawful interference with a child's right to privacy as protected by Article 8 of the European Convention on Human Rights.

The Act sets a lower threshold for sharing information about children than has previously been the case. It drops the threshold from the widely understood child protection test of "risk of significant harm" to a much lower one around concern for a child's "wellbeing", which involves a highly subjective judgment on the part of the Named Person and others as to whether to share information. It allows for the sharing of confidential information at that lower threshold even if the child does not consent. There is a serious risk that the overriding of confidentiality when there is no child protection concern will lead to children being reluctant to engage with confidential services, which will ultimately be to their detriment as they will be unable to access the help they need.

Alison Reid, Principal Solicitor of Clan Childlaw, said: "We all want to make sure that children and young people in Scotland are protected and recognise that when child protection issues arise, these need to be shared appropriately amongst professionals. However, where there are no child protection concerns, a child, like anyone else, should be entitled to a level of confidentiality when accessing advice.

### **Clan Childlaw Ltd**

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This Act creates a serious risk that children and young people will not access confidential services when they are in need of help.”

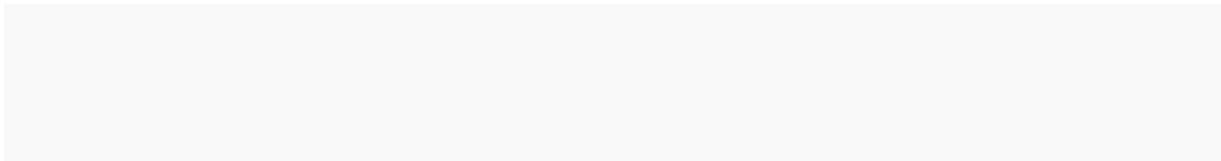
The case will be heard at the Supreme Court on 8 & 9 March.

Community Law Advice Network (Clan Childlaw) is a charity and law centre. It provides free, child-centred, outreach legal advice representation to the most vulnerable children in Scotland, the vast majority of whom are care experienced. It also provides training and contributes towards policy development.

For more information please contact Alison Reid at [alison.reid@clanchildlaw.org](mailto:alison.reid@clanchildlaw.org).

#### Notes for editors

1. *Supreme Court case: The Christian Institute & others v The Lord Advocate UKSC 2015/0215. Community Law Advice Network (Clan Childlaw) are interveners.*
2. *Clan Childlaw previously intervened in the Inner House case, The Christian Institute & others v The Scottish Ministers [2015] CSIH 64.*
3. *An intervention in a case happens where the court grants permission to one or more third parties which are not acting for either side in a dispute, to advance an argument which the judges believe may be helpful to them in reaching an informed decision.*



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