Clan Childlaw
Children and Young People (Information Sharing) (Scotland) Bill
Press Release – 23 August 2017

A charity that gives legal help to children and young people in Scotland has submitted to the Scottish Parliament that proposed legislation on information sharing about children should be withdrawn. Instead, they recommend clear, robust and accessible National Guidance should be developed for practitioners to give them confidence in acting lawfully when sharing information. The Education and Skills Committee of the Scottish Parliament is considering the Children and Young People (Information Sharing) (Scotland) Bill (“the Bill”) introduced by the Scottish Government in response to the 2016 decision of the Supreme Court of the United Kingdom in the case of The Christian Institute against The Lord Advocate.

Clan Childlaw has long expressed concerns about the infringement of children’s rights by proposed duties on professionals to share information about children. They were the “Interveners” in the Supreme Court case. The Supreme Court agreed with Clan Childlaw that previous legislation was outwith the legislative competence of the Scottish Parliament, in that the information sharing provisions were incompatible with the rights of children, young persons and parents under article 8 of the European Convention on Human Rights (“ECHR”).

In Clan Childlaw’s view, adding the proposed legislation to the existing, complex legal framework would not simplify matters. It would not alter the circumstances in which information can lawfully be shared. It is unnecessary and disproportionate to legislate in order to “encourage” the sharing of information. Legislation also has considerable financial implications. Those resources would be better directed at investing in the development of clear, robust, and accessible National Guidance and support to professionals around its implementation.

Alison Reid, Principal Solicitor of Clan Childlaw, said: “We support the principles of the GIRFEC approach including the need to share information lawfully at an early stage in order to prevent bigger problems developing. However, legislation should be necessary, effective, clear and accessible. The Bill meets none of those criteria and fails to overcome the
difficulties identified by the Supreme Court, in relation to lack of precision and accessibility, and lack of safeguards and consent. Further, it adds nothing to the existing legal framework in which information can currently be lawfully shared. The Bill should be withdrawn.”

Clan Childlaw improves life chances of children and young people by using their legal skills and expert knowledge to help young people take part in decisions that affect them and by making sure that children’s rights are realised in Scots Law.

For more information, please contact Alison Reid, Principal Solicitor, Clan Childlaw on 0131 475 2567.