1. The Children and Young People (Information Sharing) (Scotland) Bill was presented to parliament on Monday 19 June 2017 and published on Tuesday 20 June. You can read the Bill on the Scottish Parliamentary website at http://www.parliament.scot/Children%20and%20Young%20People%20(Information%20Sharing)%20(Scotland)%20Bill/SPBill17S052017.pdf

2. Along with the Bill an Illustrative Draft Code of Practice which explains the implications of the information sharing provisions has also been made available along with relevant impact assessments of the Bill. These can be accessed via the Scottish Government Getting it right for every child website at http://www.gov.scot/Topics/People/Young-People/gettingitright/information-sharing/cyp-information-sharing-bill-2017

3. The Bill will now proceed through the usual parliamentary process. Following the completion of this parliamentary process there will be a formal public consultation on the revised statutory guidance for Parts 4 and 5 of the Act and the Code of Practice on information sharing. It is the ambition of the Scottish Government to commence the legislative provisions during 2018.

4. The purpose of the Bill is to respond to the Supreme Court judgment of the 28 July 2016 which found that while the aims of Part 4 of the Children and Young People (Scotland) Act 2014 Act were “legitimate and benign”, the information sharing provisions of that Part were not “in accordance with the law”. You may wish to review the specific changes to Parts 4 and Part 5 of the Act by referring to an amended version of Parts 4 and 5 which can be accessed on the Scottish Government Getting it right for every child website at http://www.gov.scot/Resource/0052/00521303.pdf

What will change

5. The Bill introduces a duty to consider if the sharing of information will promote, support or safeguard the wellbeing of a child or young person, rather than a duty to share information that may affect a child or young person’s wellbeing.

6. The Bill outlines clear steps for practitioners to follow when considering whether to share information that ensures it is compatible with current law (Data Protection legislation, ECHR and law of confidentiality).

7. The Bill provides the power to share relevant information with or by the Named Person service and in connection with a Child’s Plan when the above conditions are met, not a requirement to do so.

8. The Bill introduces an illustrative draft Code of Practice that will need to be followed in relation to sharing information in connection with Parts 4 or 5 of the Act and can be accessed via the Scottish Government website at http://www.gov.scot/Resource/0052/00521285.pdf. The illustrative draft Code
of Practice sets out (a) safeguards which need to be considered in order that information sharing is relevant and lawful, and (b) a description of the relevant law which must be complied with when sharing information for the purposes of Parts 4 or 5 of the Act.

What remains the same

9. The Supreme Court judgment did not require other aspects of Parts 4 or 5 of the Act to change. The judgment relates only to the information sharing provisions that were intended to come into force under the Act, not to current practice under Getting it right for every child policy.

10. It remains the case that the Named Person service provisions and a coordinated planning framework for children who need that can and should be provided on a policy basis. Local Authorities, Health Boards and other organisations have worked hard to prepare for implementation of Parts 4 and 5 of the Act and should continue to implement the Getting it right for every child approach, operating within the existing legal and policy framework. The approach builds on good practice by making a clear point of contact available for all children and young people, usually via the health visitor or a promoted teacher for children in school. The role of Named Person should be taken forward by these individuals as an integrated part of existing duties, offering advice or support relevant to their expertise, or helping access support from others. It is national policy for organisations to make the Named Person service available as an entitlement, but there is no obligation for children and young people or parents to accept any offer of advice or support from the Named Person. Non-engagement with a Named Person is not in itself a cause for concern.

11. Where there are concerns for a child’s or young person’s well-being which constitute child protection concerns, then local child protection procedures should be followed without delay.

12. Every child up to the age of 18 (and beyond if still in school) will have access to a Named Person. The United Nations Convention on the Rights of the Child (UNCRC) considers those under 18 to be children and requires their rights to be protected.

13. The Government remains fully committed to applying the Getting it right for every child approach and will work with others to strengthen the approach and build public confidence as we move forward with the legislative process.

14. During the process of the Bill through parliament and as we strengthen implementation of the Getting it right for every child policy, the Scottish Government will continue to engage with the full range of interested stakeholders to ensure that every opportunity is taken to improve the quality of service which children, young people and families experience from public services across Scotland. We look forward to working with you to achieve this shared ambition.