

## **Consultation inviting views on draft Statutory Guidance on Parts 4 (Named Person), 5 (Child's Plan) and 18 (Section 96, Wellbeing) of the Children and Young People (Scotland) Act 2014 and draft Orders to be made under that Act.**

### Contents

1. Executive summary
2. Draft Statutory guidance on Parts 4 (Named Person), 5 (Child's Plan) and 18 (Section 96 – Wellbeing)
3. Draft Named Persons (Training, Qualifications, Experience and Position) (Scotland) Order
4. Draft Child's Plan (Scotland) Order
5. Annex A – Consultation questions and respondent information form

### **Executive Summary**

#### **THE CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT**

The [Children and Young People \(Scotland\) Act 2014](#) was passed by the Scottish Parliament on 19 February 2014, and received Royal Assent on 27 March 2014. The legislation is a key part of the Scottish Government's strategy for making Scotland the best place to grow up. By facilitating a shift in public services towards early intervention whenever a family, child or young person needs help, the legislation encourages preventative measures, rather than crises responses. Underpinned by the Scottish Government's commitment to the United Nations Convention on the Rights of the Child 1989 ([UNCRC](#)), and Getting it right for every child ([GIRFEC](#)), the Act also establishes a new legal framework within which services are to work together in support of children, young people and families.

The Act places in statute key elements of GIRFEC. The key elements of GIRFEC which are dealt with in this consultation, are, in summary :

- every child and young person in Scotland is to have access to a Named Person
- a statutory Child's Plan should be prepared for every child or young person who requires one as a result of their wellbeing needs
- a holistic explanation of wellbeing, which is set out in the Act

This consultation relates to the draft Statutory Guidance on Named Person (Part 4), Child's Plan (Part 5) and Assessment of Wellbeing (Part 18) of the Children and Young People (Scotland) Act 2014. It also relates to the draft Orders on the Named Person and the Child's Plan.

**Draft Statutory Guidance** – this explains the duties in Parts 4 (Named Person, 5 (Child's Plan) and 18 (Section 96, wellbeing). The Act requires the promotion, support and safeguarding of wellbeing, as explained in the Act and draft guidance, as a common approach across all services engaging with children and families.

**Draft Named Persons (Training, Qualifications, Experience and Position) (Scotland) Order** – this Order specifies the requirements as to training, qualifications, experience and position which must be held by someone in order for them to be identified as a Named Person for a child or young person. The power to specify these requirements is contained in section 19(3)(b) of the 2014 Act.

**Draft Child’s Plan (Scotland) Order** – this Order makes further provision on Child’s Plans, in particular how they are to be prepared, reviewed and managed. The powers to make this Order are contained in various provisions within Part 5 of the 2014 Act.

The consultation will run from 6 February 2015 until 1 May 2015. Following that period, responses on the draft Guidance and Orders will be considered and the documents will be revised. It is likely that a final draft of the guidance will be circulated to those who will be required to implement the duties in the Act, in advance of the formal issuing of this as statutory guidance. The intention behind this is to allow service providers to fully prepare for implementation of the Act. The formal issuing of the guidance will take place in time for commencement of the duties in the Act and finalised Orders. These duties will require to be operated in accordance with the statutory guidance from the time they are commenced.

### **Responding to this consultation**

We are inviting written responses to this consultation by 1 May 2015.

There are a number of consultation questions on which the Scottish Government would welcome views. Please do not feel obliged to answer all the questions. Equally, if you would like to comment on any other aspects of the draft statutory guidance and/or draft Orders, the Scottish Government would welcome your views.

We would be grateful if you could use the separate consultation questionnaire provided to answer the questions asked throughout the consultation paper. The questions appear in full in the consultation questionnaire at Annex A and on the downloadable consultation response form (for electronic completion).

We would be grateful for responses to be completed electronically and sent by email where possible. This will aid handling and analysis of all responses.

Please send your responses with the completed Respondent Information Form to:

[GIRFECConsultations@scotland.gsi.gov.uk](mailto:GIRFECConsultations@scotland.gsi.gov.uk)

or

*Alan Davidson  
Getting it right for every child  
Scottish Government  
Victoria Quay*

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*EH6 6QQ*

If you have any questions, please phone 0131 244 7028 or contact the dedicated website at [GIRFECConsultations@scotland.gsi.gov.uk](mailto:GIRFECConsultations@scotland.gsi.gov.uk)

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>

### **Handling your response**

We need to know how to handle your response and in particular, whether you are happy for it to be made public. The attached Respondent Information Form will ensure that we treat your response appropriately. If you ask for your response not to be published we treat it as confidential.

You should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and must consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us achieve a final version of the draft Statutory Guidance. We intend that this will be made available in summer 2015.

If you have given permission for your response to be made public and after we have checked that it contains no potentially defamatory material, your response will be made available to the public in the Scottish Government Library and on the Scottish Government consultation web pages in 2015. You can make arrangements to view responses by contacting the SG Library on 0131 244 4552.

### **Comments and complaints**

If you have any comments about how this consultation exercise has been conducted, please send them to the contact details above.



**(b)** Where confidentiality is not requested, we will make your responses available to the public on the following basis

**Please tick ONE of the following boxes**

Yes, make my response, name and address all available

**or**

Yes, make my response available, but not my name and address

**or**

Yes, make my response and name available, but not my address

Are you content for your **response** to be made available?

**Please tick as appropriate**

Yes  No

**(d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

**Please tick as appropriate**  Yes  No

## Consultation questions

### General

1) Overall, do you think that the draft guidance gives a clear interpretation of the Act to support organisations' implementation of the duties?

Yes  No

(if responding electronically, please double click on one of the boxes above and select the default value as 'checked')

Please provide details:

Part 18, Section 96 - Wellbeing

2) Do you think the draft guidance on wellbeing provides clarity about what wellbeing means in the context of the Act?

Yes  No

What is helpful and/or what do you think could be clearer?

3) Are the explanations of the eight wellbeing indicators helpful? (2.5)

Yes  No

What is helpful and/or what do you think could be clearer?

4) Are the descriptions and examples of wellbeing concerns sufficiently clear and helpful? (2.7)

Yes  No

What is helpful and/or what do you think could be clearer?

5) Please provide any other general comments about the draft guidance on wellbeing:

Part 4 - Named Person

Section 19 – Named Person Service

**6) Is the draft guidance clear on the organisational arrangements which are to be put in place by the service provider to support the functions of the Named Person? (4.1.3 - 4.1.4)**

Yes  No

**What is helpful and/or what do you think could be clearer?**

**7) The Named Person Order and the draft guidance in support of this relate to training, qualifications, experience and position of who can be a Named Person. (Named Person Order and 4.1.5 – 4.1.17)**

**Are they sufficient to promote reliability in the quality of the Named Person service while supporting the flexibility to ensure that organisations can provide the service universally and consistently?**

Yes  No

**Do they provide clarity?**

Yes  No

**Please give reasons for your answers, including if you think they should be changed:**

**8) Is the level of detail provided on the delivery of the Named Person functions within the draft guidance appropriate to guide service providers in the provision of the service? (4.1.19 – 4.1.27)**

Yes  No

**What is helpful and/or what do you think could be clearer?**

**9) The draft guidance outlines how arrangements for making the Named Person service available during school holiday periods and other absences should be put in place. Do you agree that this provides sufficient clarity while allowing local flexibility? (4.1.30 – 4.1.32)**

Yes  No

**What is helpful and/or what do you think could be clearer?**

Section 20 – Named Person service in relation to pre-school children

**10) This section of the draft guidance outlines arrangements for making the Named Person service available for pre-school children. Do you think it provides clarity?**

Yes  No

**What is helpful and/or what do you think could be clearer?**

Section 21 – Named Person service in relation to children who are not pre-school children

**11) This section of the draft guidance outlines arrangements for making the Named Person service available for children who are not pre-school children. Do you think it provides clarity? (6.1.1 – 6.1.8)**

Yes  No

**What is helpful and/or what do you think could be clearer?**

**12) Does the draft guidance make clear arrangements for providing the Named Person service for children who leave school before their 18<sup>th</sup> birthday? (6.1.9 – 6.1.25)**

Yes  No

**What is helpful and/or what do you think could be clearer?**

**13) Does the draft guidance make clear arrangements for providing the Named Person service for children of Gypsy/travellers? (6.1.26 – 6.1.31)**

Yes  No

**What is helpful and/or what do you think could be clearer?**

**14) Does the draft guidance make clear arrangements for providing the Named Person service for children who are home educated? (6.1.32 – 6.1.39)**

Yes  No

**What is helpful and/or what do you think could be clearer?**

**15) Does the draft guidance make clear arrangements for providing the Named Person service for those families with more than one Named Person? (6.1.41 – 6.1.43)**

Yes  No

**What is helpful and/or what do you think could be clearer?**

Section 24 – Duty to communicate information about the role of the Named Person

**16) Does the draft guidance make clear the requirements and expectations in relation to communicating information about the Named Person service and the Named Person?**

Yes  No

**What is helpful and/or what do you think could be clearer?**

Section 25 – Duty to help the Named Person

**17) Does the draft guidance make clear the arrangements which should be in place for service providers or relevant authorities to help a Named Person? (9.1.1 – 9.1.8)**

Yes  No

**What is helpful and/or what do you think could be clearer?**

Sections 23, 26 and 27 – Information sharing

**General**

**18) Is the draft guidance on these sections clear on requirements in relation to consideration and sharing of relevant and proportionate information when there are wellbeing concerns?**

Yes  No

**What is helpful and/or what do you think could be clearer?**

**19) Does the draft guidance make clear the arrangements and processes that authorities will need to put in place to facilitate and support the consideration and sharing of relevant and proportionate information?**

Yes  No

**What is helpful and/or what do you think could be clearer?**

**20) Does the draft guidance make clear that the sharing of relevant and proportionate information under this Act must meet the requirements of the Data Protection Act 1998 and the European Convention of Human Rights?**

Yes  No

**What is helpful and/or what do you think could be clearer?**

Section 23/Section 26

**21) Does the draft guidance make clear the arrangements for managing and sharing information when duties of confidentiality are a consideration? (10.2.14 – 10.2.16 and 10.3.10 – 10.3.13)**

Yes  No

**What was helpful and/or what do you think could be clearer?**

**22) Are the arrangements set out for considering the views of the child clear? (10.3.3 – 10.3.4)**

Yes  No

**What is helpful and/or what do you think could be clearer?**

**23) Please provide any other general comments about the draft guidance on the Named Person service, including the information sharing sections:**

Draft Named Person Order

**See question 7 above; and**

**24) Please provide any other general comments about the draft order on the Named Person:**

Part 5 – Child’s Plan

Section 33 - Child’s Plan requirement

**25) Is the draft guidance clear about the definition and explanation of what constitutes a ‘targeted intervention’? (11.2.4. – 11.2.5)**

Yes  No

**What is helpful and/or what do you think could be clearer?**

**26) Are the arrangements for seeking the views of the child, parents and others during consideration of the need for a Child’s Plan set out clearly in the draft guidance? (11.2.7 – 11.2.12)**

Yes  No

**What is helpful and/or what do you think could be clearer?**

Section 34 – Content of a Child’s Plan

**27) Do you agree that the content of the plan, as set out in the Schedule to the draft Order and described further in the draft guidance is clear and covers the full range of likely circumstances? (11.3.1. – 11.3.9 and draft Child’s Plan Order)**

Yes  No

**What is helpful and/or what do you think could be clearer?**

Section 35 – Preparation of a Child’s Plan

**28) Are the arrangements and processes set out in the draft guidance for preparing child’s plan clear? (11.4.1 – 11.4.6)**

Yes  No

**What is helpful and/or what do you think could be clearer?**

**29) Does the draft guidance give clear support on how the child’s plan and the co-ordinated support plan should be integrated? (11.4.7 – 11.4.10)**

Yes  No

**What is helpful and/or what do you think could be clearer?**

Sections 36, 37 and 38 – Responsible authority: general, Responsible authority: special cases and Delivery of a Child’s Plan

**30) Does the draft guidance make clear the different roles of the responsible, relevant, directing and managing authorities?**

Yes  No

**What is helpful and/or what do you think could be clearer?**

Section 39 – Child’s Plan: management

**31) Does the draft guidance make clear the processes and arrangements for managing the child’s plan? (11.8.1 – 11.8.13)**

Yes  No

**What is helpful and/or what do you think could be clearer?**

**32) Does the draft guidance make clear the arrangements for transferring management of a child’s plan? (11.9.1 – 11.9.21)**

Yes  No

**What is helpful and/or what do you think could be clearer?**

Section 40 – Assistance in relation to Child’s Plan

**33) Is the draft guidance helpful in describing the processes and arrangements for providing assistance in relation to functions under this part of the Act? (11.10.1 – 11.10.8)**

Yes  No

**What is helpful and/or what do you think could be clearer?**

**34) Please provide any other general comments about the draft Child’s Plan guidance:**

Draft Child’s Plan Order

See question 26 above, and:

Part 1, Article 2 - General

**35) Whenever possible we have referenced existing regulations to show the interaction with the new duties. Do you find this helpful?**

Yes  No

**Please provide any comments on this approach:**

Part 3, Article 6 – Preparation and content of a child’s plan

**36) In terms of the 2014 Act, the Named Person; and, as far as reasonably practicable, the child and their parents, are to be consulted on the preparation of a child’s plan. The draft Order sets out who else should be consulted in certain circumstances. Under the Act, the responsible authority can also consult with anyone it considers appropriate in any particular case. Do you think any other people should be consulted, as far as reasonably practicable, for the preparation of every plan?**

Yes  No

**Please provide details, including who and why.**

Part 3, Article 7 – Copies of a child’s plan

**37) Copies of the child’s plan should be provided to persons specified in the draft order, except in certain circumstances. This is set out in article 7 of the draft Order. Does this article meet the intention to ensure that others are not placed at risk of harm as a consequence of copies of the plan being provided?**

Yes  No

**If no, please provide details including what you think should be changed:**

**38) Please provide any other general comments about the draft Child’s Plan Order:**

Thank you, please send with your respondent information sheet to:

[GIRFECConsultations@scotland.gsi.gov.uk](mailto:GIRFECConsultations@scotland.gsi.gov.uk)

or

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