

Getting it right for

**CHILDREN
& FAMILIES**



PHOTO REDACTED DUE TO THIRD PARTY RIGHTS OR OTHER LEGAL ISSUES

Proposal for the development of guidance to support the GIRFEC provisions in the Children and Young People (Scotland) Act 2014



Children and Young People (Scotland) Act

Parts 4 (Named Person), 5 (Child's Plan), and 18 (Wellbeing)

Guidance Framework

Introduction

1. This document is a proposed outline of the statutory guidance that will support Parts 4 (Provision of Named Persons), 5 (Child's Plan) and 18 (General) of the Children and Young People (Scotland) Act. This outline, or framework for guidance, reflects the content of the Act as passed by the Scottish Parliament. The full statutory guidance will be available and subject to consultation in due course. The aim of the guidance framework document is to provide some contextual background to the legislative provisions, in relation to the Getting It Right For Every Child (GIRFEC) approach, its implementation across Scotland, and to indicate the areas and issues which will be covered by the full statutory guidance.
2. The ordering of this guidance differs from the ordering of the Act, in that Part 18 which includes the definition of Wellbeing is dealt with before Parts 4 and 5. The actual statutory guidance will build on this outline guidance. This document will also make reference to the separate but related guidance which will be produced to support Part 1 – Children's Rights and Part 3 – Children's Services Planning.
3. The guidance framework has been informed by the Strategic Guidance Group and working groups set up by the GIRFEC Programme Board. On-going engagement, with a wide range of stakeholders, has also highlighted issues which will require detailed explanation, or clarification within the guidance. By its nature, the Act can only include the essential legislative requirements and must rely on subordinate legislation and the guidance to lay out the underlying values and principles of the policy and intent, and how the implementation of the provisions will apply in practice for every child, but also for specific groups of children and young people, within the universal approach.

Context

4. GIRFEC is a key policy driver to improve outcomes for all children. Across Scotland all Community Planning Partnerships (CPPs) have been working to implement the GIRFEC approach over a number of years. In the Highland Community Planning Partnership the GIRFEC approach is implemented and work is on-going to fully embed it in everyday working practice. Progress on implementation is still variable across Scotland. However reports to the [GIRFEC Programme Board](#)* indicate that all CPPs are actively working to make the changes to culture, systems and practice which are necessary to deliver the GIRFEC approach, to meet the existing policy requirements and in anticipation of the commencement of the statutory duties in the Act, projected to be in 2016. There is a clear recognition among CPPs and other public

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

bodies, that there will be benefit in implementing the key aspects of policy and testing systems and practice in advance of the commencement date. The GIRFEC National Implementation Sub Group will continue to provide support for this implementation activity.

5. By enshrining key elements of GIRFEC in the Act we will ensure there is a single planning approach for children who need additional support from services, create a single point of contact for every child and provide a holistic understanding of wellbeing. This will reinforce their importance across children's services, and ensure greater consistency of implementation nationally. GIRFEC calls for transformational change within and across services, therefore the challenges of implementation are significant, but feedback from CPPs indicates that there is a desire for this change. The legislation will progress implementation across Scotland and will ensure all services are included in a common approach, with an emphasis on prevention and early intervention to provide effective support, and a key role for children and families in shaping service delivery.

Background

6. Getting it right for every child (GIRFEC) is the national approach to reforming children's services to improve outcomes for all children and young people. It overarches all other policies for children, young people and families. GIRFEC is important for everyone who works with children, young people and families, as well those who work with adults who look after children. It provides the strategic policy framework supporting other key policies and initiatives.
7. [GIRFEC has its roots](#) in the [United Nations Convention on the Rights of the Child](#), but it is also informed by evidence and builds on the experiences of practitioners, children and families. GIRFEC grew out of concerns that service provision needed to be more responsive with a stronger focus on early intervention and support, be more effectively integrated, more efficient and better focused on the child. The Act puts key elements of GIRFEC into statute.
8. Much of the early GIRFEC development was achieved through the Highland 'pathfinder' project. This ran from 2006-2009 with development work followed by implementation from 2008 across the whole local authority and Community Planning Partnership. Further work with Learning Partnerships in Edinburgh and Lanarkshire has supported and developed the evidence gathered from the Highland pathfinder.
9. Using lessons from the pathfinder project and Learning Partnerships, a number of guidance documents have been published covering different aspects of GIRFEC including a [Guide to Implementation](#) in 2010. These will be reviewed and updated prior to commencement of the GIRFEC provisions.

GIRFEC – a universal approach to promote, support and safeguard wellbeing

10. The wellbeing of all children and young people is at the heart of GIRFEC. Wellbeing, under this Act, is defined in section 96(2) in relation to eight indicators representing the key areas that are essential to enable children to flourish. These eight indicators– safe, healthy, achieving, nurtured, active, respected, responsible and included - provide a common language for practitioners. A focus on wellbeing also ensures that all practitioners take a

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

holistic view of the child, and that all aspects of wellbeing are promoted, supported and safeguarded. Supporting front line practitioners, parents and children and young people to understand and adopt the common language of wellbeing, will be a key priority within the national communication strategy.

11. The 'E' in GIRFEC stands for 'every'. This is an important principle of the approach and the Act. We know that the majority of children and young people get all of the help and support they need from their family, the wider community and their routine use of universal services. However, it is impossible to say which children and families might need additional support at some point due to changes in circumstances, e.g. bereavement, financial adversity, accident or illness. When such a need arises, services will be better placed to respond quickly and appropriately if they have adopted a universal approach which places the child at the centre. Services should be needs led, personalised and flexible, not structured on categories of children, fitting them into existing service structures with segmented access criteria. To do so could risk some children missing out on getting help, the help not being tailored to the child, not addressing the holistic needs of the child and only providing support when, or if, a problem is labelled.
12. While taking a universal approach is fundamental to the GIRFEC approach, some concerns have been expressed that this will lead to particular groups of children with generally poorer outcomes, being overlooked. The intention is that the approach will be proportionate to the individual child's wellbeing need. The guidance will support implementation for all children, but will look at how implementation should provide support to specific groups of children where, for example, the wellbeing concerns are linked to disability or chronic ill health, or wellbeing is affected by wider family circumstances, like young carers, looked after children, and children affected by imprisonment. It will be for CPPs and other public bodies to review their priorities and resources to focus on building the capacity within universal provision while maintaining the appropriate specialist and targeted services.

A Named Person for every child

13. The Named Person will ensure that action by services will be co-ordinated, child-centred, efficient and responsive. Sometimes children can be in a position of risk or harm without their parents or others being aware until it is too late. The Named Person is the single point of contact for every child so that no-one is left without support. By introducing a Named Person, we will be able to pick up and respond to emerging signs of potential concern and offer support earlier and more effectively.
14. Practitioners in the universal services of health and education are key to promoting, supporting and safeguarding the wellbeing of all children, and they do that through their day to day activities and engagement with children and families. The principle is that it is everyone's job to prevent problems occurring, or to intervene to offer help to the child and /or parent at the earliest opportunity. Practitioners, working with children and parents, have the best chance to take early and effective action. The Named Person in health or education is key to ensuring the right help is available at the right time for the child and family. All teachers and nurses have a responsibility to support wellbeing.

http://www.nmc.uk/Documents/Standards/nmcTheCodeStandardsofConductPerformanceAndEthicsForNursesAndMidwives_LargePrintVersion.PDF

<http://www.gtcs.org.uk/standards/standards.aspx>

[Read Named Person case studies here](#)

15. From the consultation responses to the Children and Young People (Scotland) Act, it was clear that the overwhelming majority of stakeholders thought that the Named Person role was a vital element of the GIRFEC approach, and therefore the legislation. Most children and families welcome and value the support and advice they receive from the Midwife, Health Visitor and school. The Named Person concept builds on this good practice. There are many examples of the Named Person role being successfully taken forward across Scotland, by health visitors or head teachers within their day to day activity.
16. The Named Person role is quite distinct from the parenting role. The policy and law are clear: parents have the rights and responsibility to bring up their children. The Named Person is a professional in the universal services of health and education, most often known to the child and parents/carers, and available to support children and families when there is a need, and to act as a point of contact for other practitioners who may have a concern about the child. This approach means that a network of support can be developed efficiently and quickly around the child and family if extra support is needed.
17. The Act proposes that the Named Person service is made available to all children (other than those in the regular forces), so that the right support can be provided at the right time. In most cases that support will be offered through the universal services with the child and parents actively involved in developing solutions to improve outcomes.

A single planning system

18. Currently, where children face a range of difficulties arising from their health, learning needs or home circumstances, there may be several different plans with no overview of the child's wellbeing. Agencies may be working in isolation to address specific needs, perhaps because they are unaware that other bodies are involved, or do not know that there are other concerns that may lie outside their main focus.
19. A key principle is that each child, no matter what their needs, who requires support from a single universal service, multiple services or from several agencies, will have this support coordinated and recorded within a single plan. The Act introduces the concept of the Child's Plan, to be used by a single agency or several agencies working together to support the child.
20. Where the child's main needs lie within the Named Person's agency (health for pre-school children or education after starting school) the Named Person is expected to initiate a single agency Child's Plan and co-ordinate delivery of support where additional targeted help is needed (a 'targeted intervention'), unless this requires a level of coordination out with the scope or capacity of the Named Person. For example, for a young child where concerns are highlighted at the 27-30 month review, the Health Visitor may seek support from other specialist health professionals and coordinate that support through a Child's Plan. Where the child is of school age, the Head Teacher can call upon education services outwith the school's resources to meet aspects of the child's wellbeing. The support and the desired outcomes will be outlined in the Child's Plan.
21. For a child who is receiving support from a number of different agencies, the Child's Plan will be multi-agency but will be discussed and reviewed in a single forum: the Child's Plan meeting. In these circumstances, the role of the Lead Professional is key to ensuring that support is coordinated across agencies, the child, young person and family are kept informed and are actively involved in the process, and the agreed support is being taken forward in line with the plan. The Lead Professional will be the professional who is best placed to carry out that coordinating role and work with the family to improve outcomes for the child, or young person. The Named Person will work with the Lead professional and should always be involved in the decision to initiate the Child's Plan even if they do not work for the agency leading on preparation of the plan. Although for many children there may be an incremental approach to planning and support, moving from a single agency plan to a more complex, multi-agency plan supported by a Lead Professional, for a minority a sudden event or crisis might require multi-agency planning and support as a first step. Typically this may occur where there are child protection concerns, or sudden serious medical issues, leading to the Lead Professional in Social Work or health taking on management of the Child's Plan, in collaboration with the Named Person in health or education. In cases where there is an involvement by the Children's Hearing system and statutory measures are being considered, the role of the Named Person in relation to promoting, supporting and safeguarding the child's wellbeing, will continue to be important alongside the coordinating role of the Lead Professional. This builds on current good practice where health

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

practitioners and education staff support children involved with the Children's Hearing.

22. As a key principle of GIRFEC, the child and the parents should be actively involved in the process of development and review of the plan and their views will be considered and recorded within the plan. Only in exceptional circumstances will professionals have to make the decision that it is not possible, or appropriate, to seek views and involve the parent and/or child in aspects of the assessment and planning process. While this allows for rare circumstances where it is not possible or in the child's interests, to seek and obtain views, there is a clear expectation that views will normally be sought and considered.
23. One of the main advantages in adopting a single Child's Plan is the reduction in bureaucracy for both practitioners and families. The experience in Highland and elsewhere is that many overlapping and possibly conflicting planning processes can be simplified and brought into one shared system. This means that, when planning and thinking about a child's or young person's needs, every practitioner should think about the whole child or young person and use their shared understanding of wellbeing to build solutions with and around children and families. These can then be recorded in a single plan, the Child's Plan.
24. The aim of the Act is to ensure that all agencies use the single planning approach leading to a Child's Plan for all children where there is a concern about wellbeing and the need for a targeted intervention. In some cases this will involve incorporating existing statutory plans into the framework of the Child's Plan. This will be the case for children with additional support needs who have a Coordinated Support Plan as laid out in the Education (Additional Support for Learning) (Scotland) Act 2004 as amended. The duties on public bodies arising from that Act will not be repealed but regulation and guidance will seek to align the legislation to support a coherent approach at service level. In practice this will mean that the statutory requirement of the CSP will be integrated into Child's Plan approach, while maintaining the legal status of the CSP. This will avoid duplication and bring the CSP into the more holistic planning model. Planning for children who are Looked After, or subject to Child Protection procedures, will follow the same single planning approach leading to the development of a Child's Plan.

Services working together

25. Improving outcomes for children through the implementation of the GIRFEC approach and provisions within the Act will depend on effective cooperation and appropriate and proportionate information sharing within and between services and organisations. This will take place within the existing legislative framework of the Data Protection Act 1998.

Information Sharing

26. It is recognised that this aspect of the Act, which is vital to support culture, systems and practice change, will require clear and comprehensive statutory guidance. The guidance will make clear how information sharing should be taken forward within the existing legal framework, with a clear focus on the rights and wellbeing of the child or young person. The Act provides that information should be shared between services and the Named Person if it is likely to be relevant to promote, support or safeguard the wellbeing of the child or young person – it does this in the ways laid out below.
27. By creating new specific statutory functions for sharing information, the Act places an express obligation on service providers and relevant authorities (as defined in section 31) to share information if the holder considers in their professional judgement that it is likely to be relevant to the exercise of any function of the Named Person. It also places an obligation on the Named Person service provider to share information if it is likely to be relevant to the exercise of any function of a service provider or relevant authority which may affect the child's wellbeing. In either case, information should only be shared if it ought to be provided for that purpose. In determining whether the information ought to be shared, the holder of the information is required to consider two other aspects: the views of the child or young person, so far as reasonably practicable (and, in the case of a child, having considered their age and maturity); and whether, by sharing information, they are likely to cause a greater adverse effect to the child's wellbeing than by not sharing. In practice these are the type of professional judgements that practitioners in health and education services are currently required to make in relation to young people disclosing sensitive personal information in the course of their routine engagements. The guidance will support good professional practice as it applies to all services and agencies.
28. The Act therefore requires information to be shared where it is likely to affect a child or young person's wellbeing and ought to be shared. This is in line with existing legislation and advice from the Information Commissioner's Office (ICO). <http://www.scotland.gov.uk/Resource/0041/00418080.pdf>
29. The Act allows information to be shared even if it breaches a duty of confidentiality (though restrictions apply in relation to the onward disclosure of such information). Where there is a duty of confidentiality it would be expected that the sharer of the information would discuss the matter with the child and take their views into account, only breaching confidentiality where it is necessary to promote, support or safeguard the child's wellbeing. The guidance will explain what a duty of confidentiality means in practice.
30. The Act creates a structure for information sharing and ensures that information which may indicate a concern about wellbeing is routed to the Named Person. It adds to current practice by placing an obligation to share any such concern with the Named Person service provider. This makes sure that the Named Person is aware of relevant information so that an accurate assessment can be made of the child's wellbeing. It gives the sharer a clear, identified single point of contact with whom to share information in a structured and targeted way. Further, sharing is not automatic. The wishes of the child and parents/carers will be listened to and taken into consideration. The Named Person is a

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

professional who has a duty to act in the best interests of the child and, in exercising their professional judgment, they will have to balance all the relevant information. However a Named Person will not act in isolation: they will be supported by policies, procedures, protocols, supervision and governance structures within their organisation. They will also act within the framework of the law. In exercising their duties health boards, local authorities directing authorities and SPS, will need to provide appropriate training and support so that the functions of the Named Person can be taken forward confidently and in accordance with clear principles and protocols.

31. Professionals need to decide what is relevant, proportionate and necessary to share. Passing on all information at a high level of detail may not be appropriate or justified. Key relevant information should be brought together to provide an overview of the significant events in relation to the concern. Guidance is being issued on establishing a chronology, providing a picture of the significant events in a child's life, to identify patterns and any emerging risks.
32. Information will not automatically follow the child. At each transition point (e.g. at school age or when moving school) a new Named Person will be appointed. A decision must be made, by the Named Person service provider, as to what should and what should not be shared with the new Named Person service provider in respect of a child's needs. This decision will be subject to the same tests as outlined in paragraph 27 above: that it is likely to be relevant; that it ought to be shared; that the holder of the information has, where practicable, elicited the views of the child; and that the sharing will not produce a greater adverse effect on the child's wellbeing than not sharing.

Section 95

Consideration of wellbeing in exercising certain functions

33. Fundamental to the GIRFEC policy is the use of the wellbeing indicators to support a holistic view of the child or young person's life and progress. The Act therefore defines wellbeing and seeks to embed its use as a common approach across all services engaging with children and families.
34. Section 95 introduces a new provision to the Children (Scotland) Act 1995 that places a requirement on local authorities to consider wellbeing in exercising functions in relation to sections 17, 22 and 26A of the 1995 Act. This means that for children who are 'looked after' by virtue of section 17, defined as 'children in need' under section 22 or who are children or young people receiving 'continuing care' under section 26A, local authorities must deliver services in a way that is designed to safeguard, support and promote wellbeing. The aim of this aspect of the Act is to reinforce the common language of wellbeing, and promote an asset based approach which accords with good practice.
35. The introduction of the concept of wellbeing in relation to looked after children, children in need and children or young people receiving 'continuing care', is intended to promote the holistic assessment of children and young people's

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

needs, giving consideration to all areas of strength and adversity, and to encourage early intervention and prevention.

Measuring outcomes

36. Section 13 of the Act sets out a requirement to report on outcomes for children and young people in terms of their wellbeing. This is in respect of all children in the community and not individual children. Separate guidance will be issued to Community Planning Partnerships.

Section 96

Assessment of wellbeing

37. Section 96 sets out what is required when assessing a child or young person's wellbeing. It may be relevant for the individual / organisation to consider:
- The child's immediate needs and how those needs can be met;
 - The child's long term needs and how those needs can be met;
 - Proposals for promoting, supporting and safeguarding the child's wellbeing;
 - Any other matter relating to the wellbeing of the child either in the immediate or long term as appears to the individual / organisation to be relevant.
38. This section will have an impact on working practices, and has relevance to Parts 3 – 6, 9 and 11 of the Act. There will be a requirement for local policies and procedures to be updated accordingly, and this will be supported through guidance.

Definition of wellbeing

39. Wellbeing, under this Act, is defined in section 96(2) by reference to eight indicators representing the key areas that are essential to help children flourish. The eight indicators listed – safe, healthy, achieving, nurtured, active, respected, responsible and included - provide a common language for practitioners. The wellbeing indicators can be understood as follows:

Safe

- Every child or young person has the right to be safe and protected, and to feel safe and protected from any avoidable situation or acts of commission or omission which might result in that child:
 - Being physically, sexually or emotionally harmed in any way;
 - Put at risk of physical, sexual or emotional harm, abuse or exploitation;
 - Having their basic needs neglected or experiencing that their needs are met in ways that are not appropriate to their age and stage of development;
 - Being denied the sustained support and care necessary for them to thrive and develop normally;
 - Being denied access to appropriate medical care and treatment; and
 - Being exposed to demands and expectations which are inappropriate to their age and stage of development;

Healthy

- Every child and young person has the right to the highest attainable standard of health to support them fulfilling their developmental potential;
- The health of children and young people should be promoted, supported and safeguarded to maximise their health throughout their life course; and
- Children and young people should have access to timely, acceptable, and affordable health care and support of appropriate quality.

Achieving

- Every child and young person has the right to fulfil his or her potential. Improving attainment and achievement go hand in hand and mean improving life chances and enabling all our young people to progress and develop the skills, ambition and know-how to enable them to fulfil their potential. Achievement also applies to a child's development as a social being with a fully-formed and autonomous personality who feels they belong and can navigate their way through life with knowledge, understanding, skill and confidence in their ability to cope with new and different challenges

Nurtured

- The right of every child to thrive and develop into a safe, healthy, happy, well-adjusted child and, ultimately, an independent, respected and responsible adult is fundamental. There is a clear overlap between the outcomes of nurturing and those related to being safe, healthy, achieving, respected, responsible and included.

Active

- Being active is not just about 'doing'. It is also about children and young people having access to and being encouraged to take up opportunities to explore their home and community environment, play with others and express themselves in a variety of different ways. It is about developing new skills, learning how to assess and manage risks, and acting responsibly and cooperatively within teams and groups. Above all, activity and play is essential to the child and young person's subjective sense of wellbeing; the positive feelings about the self that come from having fun.

Respected

- The United Nations Convention on the Rights of the Child highlights the importance of parents, carers and practitioners in children's services recognising every child's right to be treated with respect and dignity at all times, regardless of their age, gender or social, religious and cultural background, regardless of what they may have done or failed to do. Respect and being respected are multi-dimensional concepts. Every child or young person has the right to express their views on matters that directly affect them, and to have those views given due weight in accordance with their age and maturity by the adults who care for them or come into contact with them in a professional or personal capacity. The child who is treated with respect is more likely to be safer, emotionally and physically healthier, happier, more nurtured, more likely to feel and be included, more likely to achieve and more likely to respect themselves and others and behave in a considerate and responsible way.

Responsible

- Being responsible is about accountability, but it is also about leadership and decision making and understanding the rules, norms and parameters which guide how we live alongside each other. It is about the capacity for moral judgement and taking a principled stand. It is also about showing respect and compassion for others, being honest with oneself, and with others and resisting pressure to engage in inappropriate, dangerous or anti-social behaviour. Being responsible is also about self-control; being patient when one's wishes are not instantly gratified and not resorting to aggression and violence to get one's way. It is also about learning how to negotiate with others.

Included

- Every child has the right to be included. Inclusion is about the acceptance of all, and the recognition that each, regardless of their differences, can make a valuable contribution to the community. The emphasis is placed on addressing the needs of the whole child and not just those of current or most urgent concern and also assessing the child's needs within the context of his or her development and environment and identifying the strengths and pressures in that child's world. A strong emphasis should be given to removing the social, economic, cultural and personal barriers that prevent children and families from accessing services, exercising their rights and engaging with their community and society at large.
40. The wellbeing indicators are commonly described using the acronym 'SHANARRI'. While each indicator is separately defined, in practice the indicators are not discrete but connected and overlapping. In this way they give a holistic view of the child or young person and allow them, and the adults supporting them, to consider strengths and barriers to growth and development. For example, where a child experiences good quality indoor and outdoor play opportunities, this is likely to contribute to most, if not all, of their indicators of wellbeing. Conversely, where children experience chronic neglect, this has been shown to have a detrimental impact on most aspects of wellbeing, in the short and long term.

Provision of Named Persons (Part 4)

41. Throughout this section of the guidance framework a number of terms introduced by Part 4 of the legislation are used in explaining the duties related to the Named Person provisions. Such terms will be fully explained in the statutory guidance but for ease in reading this document the following brief definitions may be helpful.

Service provider

42. In general terms:-
- Each health board
 - Each local authority
 - Each directing authority
 - The Scottish Ministers – in relation to the Scottish Prison Service
43. When used specifically in relation to child or young person, the service provider is the service which provides the Named Person service.

Relevant authority

44. The public bodies listed in schedule 2, who have duties to share information with and support the Named Person:
- NHS 24
 - NHS National Service Scotland
 - Scottish Ambulance Service
 - State Hospitals Board for Scotland
 - National Waiting Times Centre Board
 - Skills Development Scotland Co. Ltd
 - Social Care and Social Work Improvement Scotland
 - The Scottish Sports Council
 - The chief constable of the Police Service Scotland
 - The Scottish Police Authority
 - The Scottish Fire and Rescue Service
 - The Commissioner for Children and Young People in Scotland
 - A body which is a “post-16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005

Directing authority

- The managers of a grant aided school
- The proprietors of an independent school
- The local authority or other person who manages the residential establishment housing secure accommodation

Section 19

Named Person Service

45. The Named Person will be an employee of a Health Board, an education authority, an independent /grant aided school, secure accommodation provider or the Scottish Prison Service. In some circumstances, where one of these service providers commissions/contracts another agency or organisation to provide a service, the Named Person may be provided as part of that service. In all circumstances however, the duties relating to provision of the Named Person service remain with the commissioning or contracting Health Board, education authority or individual establishment. The detailed statutory guidance will clarify the limited circumstances where it may be appropriate to contract out the Named Person role.
46. From birth to school age, or when the child starts school, Health Boards have a duty to provide a Named Person service for all children they are aware of who ordinarily reside in their area. From school age, or when the child starts school, Local Authorities have a duty to provide a Named Person service for every child who ordinarily resides on their area. (The exceptions to this duty on Local Authorities are outlined in Section 21 – see below.) For every child, Health Boards and Local Authorities must identify an individual, a Named Person, to carry out the following functions where appropriate to promote, support or safeguard the wellbeing of the child:
 - advise, inform or support the child or parent;
 - help the child or parent access a service or support; and
 - discuss or raise a matter regarding the child with another service or agency which may be able to provide information or support to the child and family.
47. Health Boards and Local Authorities require to have policies and procedures in place to manage their Named Person service including:
 - allocation of a Named Person;
 - information management;
 - information sharing;
 - transfer of Named Person functions from one Named Person to another within and between organisations;
 - business continuity of the Named Person service at times when the Named Person is not available, eg staff illness, holiday periods.

Section 20

Named Person in relation to pre-school children

48. This section outlines the responsibilities of a Health Board to provide a Named Person Service and the guidance will explain how these responsibilities should be taken forward.
49. On the birth of a child the Health Board where the child will normally live, has responsibility to provide the Named Person service. Where the Health Board of birth is not the Health Board of ordinary residence, the Health Board in which

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

the child is born will have responsibility to provide a Named Person service. This will be the case until they identify and inform the Health Board of ordinary residence of the child, and they take on responsibility for the Named Person service.

50. If a Health Board is aware that a child for whom it has been providing the Named Person service takes up ordinary residence in another Health Board area, then it will cease to have responsibility to provide a Named Person service when it contacts the Named Person service in the other Health Board area and transfers responsibility.
51. The Named Person for the new-born child will routinely be the mother's named midwife where they are employed by or commissioned by the Health Board.
52. In the few circumstances where the Health Board does not employ or commission the named midwife, or where there is no named midwife, the Health Board will put in place measures to provide a Named Person service, and inform the parent. Examples of this are where a mother has not sought antenatal care, chooses to use an independent midwife, or where the general practitioner has led on providing antenatal care.
53. When a baby is approximately 10 days old the midwife will normally transfer the functions of the Named Person role, along with their duty of care for a child, to the Health Visitor. In situations where the Health Board does not employ or commission the named midwife, or where there is no named midwife, the Health Board will put in place measures to ensure continuity of the Named Person service to the child, either transferring the functions to a Health Visitor or another individual, and informing the parents.
54. Where the Named Person at this stage is not to be a Health Board-employed, or commissioned, health visitor, then the Named Person would typically be a Health Board employed or commissioned practitioner with a professional nursing qualification and registration with relevant experience e.g. a Family Nurse who does not have a health visiting background. Where the individual identified to provide the Named Person functions does not have a nursing qualification or registration, then the Health Board must assure itself that the individual has a qualification of an equivalent level to that required in nursing or teaching, and has had relevant training and development to build the competencies to enable them to undertake the role. Subordinate legislation and guidance will ensure that Health Boards provide Named Persons with the appropriate level of training, qualifications and experience.

Section 21

Named Person in relation to children not falling within section 20 (not pre-school children)

55. This section outlines for whom the local authority must put in place arrangements to make available the Named Person service.
56. The guidance will explain how from school entry, or at school age as defined, the local authority becomes responsible for making available a Named Person for every child and young person known to them who ordinarily resides in their area.

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

57. The authority where the child, or young person, ordinarily resides is not responsible for the Named Person provision if the child or young person attends a school in another Local Authority area, or an independent or grant aided school, or is held in secure accommodation or is held in or subject to temporary release from prison/custody.
58. In those circumstances, the full guidance will outline how the Local Authority which manages the school attended, or the directing authority of the individual establishment, or the Scottish Prison Service, will have responsibility to make arrangements for the Named Person.
59. Generally in education, the designated Named Person will be a promoted member of staff within the school, usually the head teacher. In practice the role of the Named Person may be delegated to be carried out by a deputy head or principal teacher. The Named Person will be part of a network of support and will themselves be supported by the management framework and procedures in place within the school and the local authority. Guidance will make reference to how the Named Person Service is to be made available to children who do not have a standard pattern of school attendance, like travellers, home schooled and those too ill to attend school.
60. For children who have left school but have not yet attained the age of 18, the Local Authority will make arrangements for an officer with appropriate experience, and who is in a position to carry out the functions of the Named Person, to be the designated Named Person for that group of children. They will be available should the child have a concern and seek help, or where a concern is raised by someone else, for example, the police. Guidance will clarify the expectations on the Named Person service in these circumstances, linking with current obligations within the More Choices More Chances, and Opportunities for All policies.
61. For the small number of 16-18 year olds who are members of the reserve forces, the provision of the Named Person service will not apply while they are under the direction of the reserve forces on training or duty. Guidance will outline how the service should be suspended and reinstated in these circumstances. Children who are in the regular forces are excluded from the Named Person provisions and special arrangements do not therefore have to be made for them.
62. For the majority of children and young people, the Named Person will provide support through their day to day activities within the school, ensuring that the culture, systems and practices within the establishment follow the principles and values of GIRFEC, supported by Curriculum for Excellence. The Named Person, however, will also be well placed to identify any early signs of concern about an aspect of wellbeing, through their own engagement with the child and family, or the reports of other teachers, or through information given by others outwith the school. This early identification and preventive role is key to ensuring that children and young people receive the right help in a timely and proportionate manner.
63. The Named Person is also key to ensuring that children, young people and their parents know who to contact if they have a concern about wellbeing. Most of the functions of the Named Person reflect and build on current good practice.

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

The Named Person in the school can work with the family to assess the concern and need, and either give advice, or put in place the right supports, or help the family access support from other services or agencies. Depending on the circumstances, the Named Person will have a role in assessing and analysing the nature of the concern, and where appropriate organising, coordinating and managing the plan put in place to address the concern and improve outcomes for the child. The guidance will illustrate how the support of the Named Person can cover the routine advice and support which children and families receive regarding, for example, homework, friendship issues, course choices. It will also clarify the wider role which may at times require the Named Person to coordinate assessment and planning for a wellbeing concern, or seek assistance from another service to support a child's needs.

64. One of the areas which guidance will clarify will be the expectations regarding business continuity in the operation of the Named Person service. This will include arrangements when the Named Person is off sick, diverted from normal duties, and all other circumstances. There will require to be specific arrangements within education services during school holidays. This will be based on current good practice in planning support for children with identified needs, or those known to be vulnerable, emergency situations due to child protection concerns or other unforeseen events, and management of non-urgent enquiries from families or others.
65. While the Named Person will carry out the functions outlined in the Act, the responsibility for the exercise of the Named Person functions will lie with the Health Board, education authority, independent establishment or Scottish Prison Service, and not with the individual member of staff.

Section 22

Continuation of Named Person service in relation to certain young people

66. This section relates to continuation of the Named Person function beyond 18 years for young people who are still attending school.
67. The guidance will outline how the above arrangements will continue to apply to young people who are in school, even though they have reached their eighteenth birthday.
68. The guidance will outline how arrangements are to be put in place to ensure that when children's circumstances change, necessitating a change of Named Person, appropriate information is passed from one Named Person to another.

Section 23

Communication in relation to movement of children and young people

69. Currently, various arrangements are in place for the routine transfer of information at transition points, e.g. patient records from one Health Board to another Health Board, and pupil progress records from one school to another, and this will continue to be the general procedure. A record will be held for routine purpose, access to it may be fairly wide depending on those involved with the routine aims of the universal service. Information specific to the Named Person function of promoting, supporting and safeguarding a child's wellbeing

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

will in many cases be of a more confidential and sensitive nature; at times it will consist of information shared with the Named Person by a third party under section 26 of this Act. Any further sharing of that type of information must be as a result of a decision made by the Named Person, that to do so is necessary to promote, support and safeguard the child's wellbeing. This decision point as with others should involve a test of proportionality, relevance and purpose.

70. The sharing and the rationale for sharing must be recorded. As a consequence, the handling and storage of such information will require additional levels of security.
71. The Data Protection Act 1998 (DPA) requires organisations to have appropriate technical and organisational measures in place when sharing personal data. The Information Commissioner has published a Data Sharing Code of Practice, which provides guidance in respect the handling and sharing of personal data. It is expected that all relevant aspects of the code will be followed by organisations, which are affected by parts of this Act. The code can be accessed at
http://www.ico.org.uk/for_organisations/data_protection/topic_guides/~media/documents/library/Data_Protection/Detailed_specialist_guides/data_sharing_code_of_practice.ashx
72. Guidance will outline how, within the Named Person provision, the transfer of information from one Named Person to another, should relate to a concern about wellbeing which is of current relevance to the child, or is considered likely to be relevant in the future. Where there is no on-going concern about wellbeing, no information need be transferred. It is important that each transition, whether within a Health Board Area or a Local Authority area or to another area or another authority, should be regarded as an information sharing decision point. The outgoing Named Person should consider:
 - What information needs to be shared to support, promote or safeguard the child's wellbeing?;
 - What information does not need to be shared.
 - The views of the child or young person, (in the case of a child, having taken their age and maturity into account)
 - Whether sharing the information would be likely to have a greater adverse effect on the child's wellbeing than not sharing.
 - Where there are no wellbeing concerns which are felt to be relevant, procedures should be in place to inform the new Named Person that only routine information will be shared. The guidance will outline how the link between successive Named Persons may be helpful in revisiting the information transferred in the light of subsequent concerns or issues arising. A decision not to share information can be reviewed if the child's circumstances change.
73. At times this may involve the Named Person seeking the assistance of their manager or others within their organisation. As far as reasonable, what is to be shared should be discussed, where appropriate, with the child and/or the child's parents or carers.

74. If shared, the information should at all times be relevant and proportionate to the child's needs and shared for the purpose of promoting, supporting or safeguarding the child's wellbeing. Information should not be shared if it is likely to prejudice the conduct of a criminal investigation. Such circumstances will be rare and will involve close partnership working with Police Scotland, who will assist in advising what can and cannot be shared. If information is not shared, it will be important to ensure that this does not impact adversely on the child's wellbeing. Continual monitoring will be essential in these circumstances.
75. The current provider of the Named Person service is responsible for passing on information to the next service provider, when they know that a new service provider is involved. The guidance will specify how, at each point when there is a change of Named Person, the current service provider should decide what information needs to be passed on to allow the new Named Person to promote, support and safeguard the wellbeing of the child. The guidance will outline the parameters within which this judgement should be made.

Section 24

Duty to communicate information about the role of Named Persons

76. This section outlines what information about the Named Person service the Health Board, education authority, independent/ grant aided school secure accommodation provider and the Scottish Prison Service, must publish generally, and specifically for children and families.
77. The guidance will not specify how the service provider must publish information but will detail what information should be published. It will be for the service provider to determine the best way to publish this information. In general terms, information will include what the Named Person arrangements are, how they will function in an area or establishment, how the Named Person can be contacted and any other information relevant to the Named Person arrangements, for example the local arrangements in place during staff absence or school holidays.
78. Service providers will also have to inform parents and children how to contact the Named Person for the child, when they first become the service provider, and if the Named Person service provider changes.
79. Although there is no provision in the legislation about how the information must be published, the guidance will provide a range of relevant options to support Health Boards, education authorities, and independent schools in exercising this duty. In many cases the information may be included in existing publications, or forms of communication, which are familiar to service users.

Section 25

Duty to help Named Person

80. This section covers how the Named Person can request assistance from another service provider and the responsibility on other providers to respond.
81. Depending on the needs of the child or young person, the Named Person may be unable to promote, support and safeguard wellbeing using resources solely

from within their own service, and may need to seek assistance from another service provider or organisation. This is a key provision to ensure that the Named Person is part of a network of support and not functioning in isolation.

82. On receipt of a request for assistance to help in the exercise of the Named Person functions, a service provider will have to comply with that request unless doing so will be incompatible with their existing duties or would unduly prejudice the exercise of their functions. The guidance will outline the parameters within which decisions to comply, or otherwise, should be made and explain some of the circumstances which might lead to non-compliance with the request for assistance and the management of unmet need. The guidance will stress how strong, agreed local protocols, professional relationships and leadership will be key to delivering systems to support the Named Person functions.

Section 26

Information sharing

83. Section 26 provides a framework to support the appropriate sharing of information by the Named Person and others, to support the exercise of the Named Person functions. It sets out the responsibilities of a service provider (including the Named Person's own organisation) or relevant authority (as defined in section 31) to share information.
84. Section 26(1) and (2) set out that information should be shared with the named person's organisation (in practice, with the named person) if:
- It is likely to be relevant to the exercise of the functions of the Named Person in relation to a child or young person. (In establishing what information is likely to be relevant to the functions of the Named Person, the information holder should consider whether the circumstances of which they are aware indicate that the wellbeing of the child or young person may be affected).
 - It ought to be provided for that purpose - (for clarity on purpose it helps to refer back to section 19(5) where the functions of the Named Person are outlined, however they can generally be taken to be to promote, support and safeguard the wellbeing of the child or young person.)
 - They have, where practicable, obtained and considered the views of the child or young person and, in the case of a child, have considered their age and maturity in taking these views into account.
 - The likely benefit to the wellbeing of the child or young person arising in consequence of doing so outweighs any likely adverse effect on that wellbeing arising from doing so.
 - The information sharing will not prejudice the conduct of a criminal investigation or the prosecution of any offence. In cases where the sharing may prejudice the conduct of a criminal investigation or the prosecution of any offence, the information should not be shared. Close cooperation with Police Scotland and the Crown Office and Procurator Fiscal Service (COPFS) will be required and advice sought as to what can and what cannot be shared.
85. It is important to remember that information is being shared with the Named Person and that they will make a reasoned professional judgement as to the further sharing of such information. There is a clear distinction between

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

informing the Named Person of a concern and that information being made more widely known. Many services regard a child's ability to share information with them confidentially as key to their engagement. Professionals dealing with mental health, matters related to sexual behaviour and more specific issues relating to gender identity are by no means exhaustive examples of where the child may not want matters further shared.

86. The fundamental change to these issues is the requirement on the professional to consider what ought to be shared with the Named Person. The professional and Named Person will be able to discuss the case, consider the wishes of the child, further consult with the child and arrive at a decision. The decision will however be driven by what is best for the child's wellbeing. It is not expected that any decision will be taken in isolation from any advice from professionals or the views of the child.
87. At times however achieving the balance between confidentiality and sharing can be difficult and difficult decisions may be necessary in the child's best interest. In such cases, where the child, or the service sharing the information, requests confidentiality, then respecting that request will be the default position of the service provider, relevant authority or Named Person. Only in circumstances where further sharing is necessary to promote, support and safeguard a child's wellbeing or to prevent harm to another will information be shared further. Decisions such as these will require to be evidenced and the rationale clearly recorded. This process will involve seeking and considering the views of the child and the child's right to privacy.

Example of proportionate information sharing in health.

88. Health Visitors in their day-to-day role and as Named Persons will have access to a wide variety of information relating to child's wellbeing and family pressures. For example, a mother who experiences post-natal depression and struggles to provide consistent care for a child in infancy. With appropriate support, this mother may quickly recover and the impact on the child's wellbeing maybe minimal. A few years later the Health Visitor as Named Person for the child will be handing over that responsibility to school. At this point the Health Visitor must consider what information should be shared with the new Named Person in the school. If, in this instance, there have been no concerns regarding mum's mental health or any on-going wellbeing concerns about the impact on the child then it would not be appropriate or proportionate to share information about an episode that happened four years earlier. However if at the time of starting school mum was again struggling with her mental health, and that had an intermittent impact on her ability to provide consistent care for the child then it would be appropriate to share with the new Named Person proportionate information about the situation and the risks to the child's wellbeing.

Example of proportionate information sharing in education.

89. Parents may have concerns about their child and seek to discuss it with the school, or in some cases the school may have noticed a change in the child's behaviour and may arrange to have a chat with the parent to explore the reasons for it, and discuss support. During the discussion the parent may report that there has been a significant change at home, or in some aspect of the

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

child's life, e.g. loss of a grandparent, parental separation, domestic abuse, financial worries, trouble with neighbours, imprisonment of a family member, or serious health issues. Many families may experience such adversity at some time and this will have an impact on the wellbeing of some children, and is likely to manifest itself in changes in behaviour at home and in school.

90. As The Named Person, the Head Teacher must ask the five practitioner questions:
 - What is getting in the way of this child or young person's well-being?
 - Do I have all the information I need to help this child or young person?
 - What can I do now to help this child or young person?
 - What can my agency do to help this child or young person?
 - What additional help, if any, may be needed from others?
91. The action taken will depend on the nature of the concern about wellbeing. However in all circumstances, the Named Person will discuss with the parents who else should know about the background to the concern, and how much they need to know to support the child. If the Named Person feels they must share further, they will inform the parent. In most cases this may mean providing substantive information to the class teacher to help him/her understand the child's needs and adjust support within the classroom, but less information to the classroom assistant who may need to offer greater supervision or support in the playground, or at an after-school club. Only that which is necessary to support the child should be shared.
92. In some cases, the Named Person will consider there is a real risk to the child's wellbeing if the information about the family situation is not passed on to another agency. The Named Person needs to explain clearly to the child and parent who will be told, what will be shared and the reason for the information sharing. No consent is required in that circumstance, but the Named Person should record who the information is shared with, what is being shared and why.
93. Sections 26 (3) and (4) place a duty on the Named Person service provider to further share information if it is likely to be relevant to a function of another service provider or relevant authority (as defined in section 31) which affects or may affect a child or young person's wellbeing. The same tests on sharing apply as outlined at paragraph 84.
94. Section 26(8) and (9), give the Named Person service provider the power to further share information with a service provider or relevant authority should they feel that it is necessary or expedient for the exercise of the named person functions. It should be noted that this is a power and not a duty and is therefore at the Named Person's discretion.
95. Section 26(10) covers situations where organisations are commissioned or contracted to supply services on behalf of relevant authorities or service providers and states that whilst supplying such a service they are also to be covered by the provisions of section 26.
96. Some professions are covered by a common law duty of confidentiality and professionals adhere to that duty in relation to their dealings with clients. The most common examples are medical practitioners and solicitors. The general

position is that if information is given in circumstances where it is expected that a duty of confidence applies, that information cannot normally be disclosed without the information provider's consent.

97. In practice, this means that all client and patient information, whether held on paper, computer, visually or audio recorded, or held in the memory of the professional, must not normally be disclosed without the consent of the patient or client. It is irrelevant how old the patient is or what the state of their mental health is; the duty still applies.
98. Section 26(11) makes it clear that provision of information under the section does not permit or require the sharing of information in breach of any legal duty, other than a duty of confidentiality. The types of situations where it may be necessary and appropriate to share information in breach of a duty of confidentiality are discussed at paragraph 84 above, and guidance will set out further details and examples of these.

Section 27 Disclosure of information

99. Section 27 applies only where the requirements of Part 4 have been complied with, and, as a result, information has been shared in breach of a duty of confidentiality. Where a person is providing the information in breach of such a duty, they should make the recipient aware of this fact. Where they do so, this section then provides that the information should not be further shared, unless required or permitted by virtue of any legislation or rule of law. This offers a safeguard against further sharing of information in breach of a duty of confidentiality.

Section 28

Guidance in relation to Named Person service

100. This section provides that local authorities, Health Boards, directing authorities (independent/grant aided schools and providers of secure accommodation) and relevant authorities (as defined in section 31) must have regard to any guidance issued by Scottish Ministers about exercising the Named Person functions as set out in Part 4.
101. The Scottish Ministers are required to consult with the persons to which the guidance relates, and such other persons as they consider appropriate, before publication or revision.

Section 29

Directions in relation to Named Person service

102. This section provides that local authorities, Health Boards, directing authorities (independent/grant aided schools and providers of secure accommodation) and relevant authorities (as defined in section 31) must comply with the directions issued by Scottish Ministers about exercising the Named Person functions as set out in Part 4.
103. As above, consultation by the Scottish Ministers is required prior to issue, revision or revocation of the directions.

Section 30

Complaints in relation to Part 4

104. This section provides an order making power so that Ministers can make provision about the making, consideration and determination of complaints relating to the exercise of functions in Part 4. Consultation will be undertaken with stakeholders on the development and detail of the provisions before any Order is laid. Guidance will cover how the complaints process should work in practice, and may include matters which may be the subject of complaints and timescales for dealing with complaints.

Section 31

Relevant authorities

105. Section 31 defines “relevant authorities” as those persons listed in schedule 2. This section allows the Scottish Ministers to modify this schedule in the future as required. The section also provides that certain persons are not listed authorities for the purposes of section 29 and are therefore not subject to the duty to comply with Directions made by the Scottish Ministers.

Section 32

Interpretation of Part 4

106. This section defines words and phrases used throughout Part 4. In particular it defines what “directing authority” and “service provider” mean when used in this

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

Part. Guidance will provide a clear operational definition of these terms to support practitioners.

Part 5 - Child's Plan

107. Part 5 introduces the following new terms:

Responsible authority – generally

- The health board of normal residence for children 0-5
- The local authority of normal residence for children from 5-18

Responsible authority – special cases

- The authority managing a public school attended by the child outwith the area where the child resides
- The directing authority of a grant aided or independent school
- The child's "home" local authority where their ordinary residence has been displaced in certain circumstances – see section 37 for further detail.

Targeted intervention

- Is a service which is provided by a relevant authority (health board, local authority, directing authority) as part of its functions. This includes where the service is provided by a third party under arrangement with relevant authority (for example, an intervention provided by the third sector).
- Is aimed at meeting the needs of children and young people, whose needs cannot be met, or fully met, by the services which are provided generally to children by the authority

Section 33

Child's Plan: Requirement

108. This section outlines when a Child's Plan is required based on an assessment of wellbeing, which identifies that the child's needs cannot be fully met without one or more targeted interventions. A targeted intervention is a service which is over and above that which would normally be delivered to children in the local area by universal services and may vary from area to area. A targeted intervention may be provided directly by an authority or under arrangements which it has made for a third party (for example, a voluntary organisation), to provide the intervention.

109. Examples of targeted interventions which may feature in a Child's Plan include:

- Baby massage sessions;
- Speech and language therapy input;
- Parental support through targeted parenting programme;
- Specific prescribing/dispensing schedule for methadone for parent;
- Inclusion in school nurture class;
- Parent and child participation in child healthy weight programme;
- Befriending support for young person;
- Child and Adolescent Mental Health Services.

110. In deciding whether a Child's Plan is required, so far as is reasonably practicable, the views of the child and the child's parents must be ascertained,

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

taken into account and documented. The child's age and maturity should be taken into account when having regard to their views. The guidance will set out the expectation that the child and parents will be consulted, unless there are compelling reasons why that is not possible, or not appropriate in terms of the child's wellbeing. Where the child's Named Person is not an employee of the authority deciding about the requirement for a plan ("the responsible authority"), they should also be consulted. Guidance will emphasise that it will be for services to set the culture of collaboration, train staff and manage practical barriers to ensure that children and families are actively involved in almost all cases. A range of tools exist, and others are being developed, to support practitioners to work with children and families to engage them in the assessment and planning process.

111. There should only ever be one plan for a child, a Child's Plan. The plan should be subject to on-going review and tailored to deal with any additional needs that are identified.
112. Members of the regular Armed Forces who are under 18 years of age are exempted completely from these provisions. Children in the reserve forces are not exempt - guidance will outline how Child's Plans should work in practice for children who are members of the reserve forces while they are away on training or duty.

Section 34

Content of a Child's Plan

113. This section outlines the basic minimum content to be included within a Child's Plan – this is the wellbeing need, the targeted intervention(s) which is to be provided and by whom; the manner in which the intervention is to be provided and the outcome which the intervention is intended to achieve
114. This will be supplemented by the minimum data set for each Child's Plan, which will be prescribed within subordinate legislation made under Section 34(4) of the Act.
115. A relevant authority has to agree to provide the targeted intervention, and where there is no agreement, the relevant authority must indicate in writing the reason for the refusal. Guidance will outline the protocols for managing this process with an emphasis on robust local protocols, transparency and clear evidence for the decisions taken in relation to the targeted interventions in the Child's Plan.
116. The Child's Plan must contain as a minimum:
 - Details of the child or young person, key people such as relatives and practitioners who influence their lives;
 - Dates of commencement, review and closure of the plan;
 - A summary of relevant assessments and analysis including use of the National Practice Model ;
 - Identified needs supported by a single agency;
 - Where there are partners to the plan, an integrated chronology of events significant and proportionate to the context of the plan;
 - The desired outcome(s) for the child or young person;

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

- A list of agreed actions which will address the need, who they are to be carried out by, why and by when;
- The views of the child/family;
- A record of when the desired outcome(s) has/have been achieved;
- Any compulsory measures of care, with supporting evidence as to why they are being recommended and what is to be achieved; and
- In cases where there are additional statutory planning requirements such as the Co-ordinated Support Plan (CSP) as required by the Education (Additional Support for Learning) (Scotland) Act 2004 those requirements will be included within the plan.
- In cases involving the Children's hearing, non-disclosure issues will be included

Section 35

Preparation of a Child's Plan

117. This section will describe the process to be followed when creating a Child's Plan.
118. In any case where it has been established that a child requires a plan, the plan must be created as soon as reasonably practicable. In most cases the responsible authority will prepare the plan; however, another authority (a "relevant authority", as defined in section 45) may prepare the plan if they agree that this would be more appropriate. Where a range of specialist services from one agency are involved with the child and family it may be more appropriate for another authority to take on the role of preparing and/ or managing the Child's Plan.
119. If there are concerns about a child's progress in one or all areas of their wellbeing, then the responsible authority has a duty to respond by offering help themselves, or arranging with other services, relevant to the child's needs, for help to be given. This is in keeping with current practice where through health and education services, the child's needs are reviewed as part of the service offered and a professional judgement made as to how a child might be supported through routine practice, or where necessary through a more targeted service. Where a targeted intervention is required, it is expected that the responsible authority, through the Named Person service, will normally prepare the child's plan. In cases where the named person is not employed by the responsible authority, they will be involved in the decision to initiate the plan and the preparation of the plan. They will be a partner to the plan. The responsible authority will also monitor and review the effectiveness of any help that is being given where they are in the co-ordinating role. Further details on the role of the responsible authority are given in paragraphs 120 – 125 below.
120. In order to inform this decision making process, the authority should consider the following 5 questions –
 - i. What is getting in the way of this child's wellbeing?
 - ii. Do I have all the information I need to help this child?
(if not then they can use the provision of section 19(5)(a)(iii) to discuss with the Named Person)
 - iii. What can I do now to help this child?

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

- iv. What can my agency do to help this child?
 - v. What additional help, if any, do I need from other agencies?
121. Where there is a need for a multi-agency plan, and the responsible authority considers the interests of the child would be best met if another agency coordinates delivery of the Child's Plan, they must seek agreement for that other agency to provide a Lead Professional and manage the plan.
122. Although the role of Lead Professional is not referred to within the legislation, the term is used in GIRFEC practice and should always be the practitioner best placed to co-ordinate, monitor and review the effectiveness of the help being given in relation to the child's current needs, within the multi-agency framework.
123. Depending on the nature of the child's needs and the co-ordination required to deliver the plan, the role of Lead Professional may be undertaken by the Named Person or another relevant practitioner. The agency taking responsibility for the management of the Plan is referred to as the Managing Authority. The Managing Authority for a Child's Plan will be able to request information, advice or assistance for the purpose of managing the plan, and this will apply whether the managing authority is or is not at the same time the provider of the Named Person service in relation to the Child's Plan. Guidance will outline how this will work in practice. Responsibility for managing the plan remains with the Responsible Authority until the transfer has been agreed. The Lead Professional will always be an employee of or contracted by the Managing Authority.
124. The full guidance will make clear the link between the Named Person and Lead Professional, and outline the nature of the protocols and procedures which will need to be put in place. Guidance will also outline how in circumstances, where urgent action is required to support an aspect of a child's wellbeing, services should link through the Named Person and Lead Professional to agree and develop a Child's Plan. This would include for example, situations where a school aged child is involved in an accident requiring extensive, urgent medical intervention and planning, or where action has to be taken to plan for a child's safety and reduce the risk of further abuse.

Section 36

Responsible authority: general

125. This is the body with responsibility for deciding whether a Child's Plan is required and, in most instances, preparing the plan. In the majority of cases, this will be the same body providing the Named Person Service. For the majority of children who require a Child's Plan, the responsible authority will be the Health Board or Education Authority in the area where the child is ordinarily resident.

Section 37

Responsible authority: special cases

126. This section deals with cases where a Health Board or local authority has placed a child out with the area where the child would ordinarily reside. In these

situations, the placing Health Board remains the responsible authority. Examples would be where a child with complex health needs is receiving medical treatment in another Health Board area, or a looked after child is placed in a residential school in another area.

127. Where a child attends a public school outside the Local Authority area where they live (but does not reside there), the Local Authority where the child goes to school will be the responsible authority for that child.
128. Where a child attends an independent or grant-aided school, the school assumes the role of ‘responsible authority’ which means the management/proprietors of the school assume responsibility for deciding on the requirement for and, in most cases, preparing the Child’s Plan. Guidance will clarify the relationship between the Named Person functions and those of the Lead Professional in relation to the Child’s Plan where children attend an independent or grant aided school.
129. Where a child’s residence is displaced as a result of: their being placed by a local authority at a grant-aided or independent school and residing in accommodation provided for that purpose; their being placed in a residential establishment under Chapter 1 of Part 2 of the Children (Scotland) Act 1995 or via an order made under Children’s Hearing (Scotland) Act 2011; or being detained in residential accommodation as a result of an order made under the Criminal Procedure (Scotland) Act 1995; then the local authority for the area in which the child would normally reside will be the responsible authority in relation to the child.
130. Section 37(7) allows the Scottish Ministers to make subordinate legislation specifying further special categories of case where the responsible authority should not follow the default position (ie local authority or local health board of residence), as required.

Section 38

Delivery of a Child’s Plan

131. This section provides that, where a targeted intervention is to be provided under a Child’s Plan, it must be provided in accordance with the Plan in so far as is reasonably practicable. This applies regardless of whether the targeted intervention is being provided directly by an authority, or by a third party under arrangements with the authority. This duty does not apply where a service provider considers that it would adversely affect the wellbeing of the child to deliver or continue to deliver the service as documented in the plan. In these circumstances, the plan should be reviewed.

Section 39

Child’s Plan: management

132. This section outlines the review process for the Child’s Plan.
133. The managing authority must keep under review whether
 - The current wellbeing needs of the child are still accurate as recorded in the plan

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

- Any targeted intervention being provided is still appropriate to the current wellbeing needs of the child.
 - The plan is being managed by the most appropriate authority
 - The desired outcomes of the plan have been achieved.
134. This section also outlines the process for review and details that the managing authority, when reviewing a Child's Plan, should consult with: each authority responsible for providing a targeted intervention; the responsible authority (if different); the child; the child's parents; and, where they are not an employee of the managing authority, the child's Named Person. There is also power to specify further persons who can be consulted and these will be set out in subordinate legislation to be made under section 39(2).
135. When having regard to the views of the child, account should be taken of the child's age and maturity. Guidance will clarify that while every practicable effort should be made to consult with the child, the significance and weighting given to the information received will have to be considered in relation to the age and maturity of the child. It will be for agencies to ensure that staff have the skills to do this.
136. Those supporting the child and the delivery of the Child's Plan will be regarded as partners to the plan. Partners to the plan will always include the Named Person and, where appropriate, the Lead Professional. The child and parent will be partners to the plan, unless their inclusion was not considered as promoting, supporting or safeguarding the child's wellbeing. For example, in a small number of instances, it may not be appropriate to include parents as partners to the plan where they are estranged, or subject to particular court restrictions. Those services delivering a targeted intervention will be regarded as partners to the plan.
137. Having reviewed a plan, the managing authority through the Lead Professional may consider that any of the following aspects of the plan require to be revised:
- The current wellbeing needs of the child;
 - The targeted intervention(s) and service provided or the manner in which it is being delivered;
 - The outcome the plan is intended to achieve.
138. After considering these matters, the managing authority may decide that the plan should be ended, or that management of the plan should transfer to another authority. Subordinate legislation made under section 39(6) will make further provision about management of child's plans, including the circumstances in which management of a plan should be transferred.

Section 40

Assistance in relation to a Child's Plan

139. All relevant authorities (as defined in section 45) and all "listed authorities" (ie persons listed in schedule 3) must respond to any reasonable request for information, advice or assistance by a person exercising Child's Plan functions; i.e. the responsible or managing authority, or an employee of that organisation (Named Person or Lead Professional). This duty does not apply where to

provide the information, advice or assistance would be incompatible with any duty of the authority or person, or would unduly prejudice the exercise of their functions. While the principle of joint and collaborative working to support children and young people is fundamental to the GIRFEC approach, this aspect of the legislation recognises that it is for individual services to manage their resources in line with their professional purpose and standards. This is a particular consideration for services that manage waiting lists where the individual holistic needs of the child or young person must be considered within the context of providing transparent fair and equitable access to services.

140. Information provided under this section must be proportionate and relevant to the child's current wellbeing need. It is important to stress that this process doesn't mean sharing everything; only the information needed to address the child or young person's needs and which is appropriate to share and proportionate to promote, support, or safeguard a child's wellbeing. Further, section 40(4) makes it clear that it does not permit or require the provision of information in breach of any legal prohibition or restriction on sharing information, except a duty of confidentiality.
141. The types of information shared will generally be
- Concerns about a child's wellbeing
 - Assessments and analysis
 - Practitioner reports
 - Chronologies
 - Child's Plan
142. Within a CPP, information such as above will regularly be shared with partners. It is essential that such sharing is done within the context of a Data Sharing Agreement.

Data Sharing Agreements

143. In all cases where there is regular or anticipated regular sharing of information including concerns, the Information Commissioner's Office (ICO) Code of Practice should be adhered to and Information Sharing Agreements established. These agreements will cover the sharing of information, its handling, manner, storage, retention, disposal and security. There is a requirement under the Public Records (Scotland) Act 2011, which requires the Keeper of the Records of Scotland¹ (the Keeper) to publish a Model Records Management Plan (model plan) to assist named public authorities² prepare their own records management plan (RMP) for his agreement.
144. The Keeper has issued a model RMP. This can be used by authorities without modification, if it fits their circumstances, or by amendment to suit their records and their particular business needs.
145. The Model Plan has 14 elements. The Keeper expects each of these elements to be addressed in a RMP submitted by an authority. These arrangements

¹ The Keeper of the Records of Scotland is one of the statutory titles of the Chief Executive of the National Records of Scotland.

² For the purposes of the Public Records (Scotland) Act 2011 includes all Relevant Authorities, Responsible Authorities and Service Providers but does not include Directing Authorities.

cover retention schedules, destruction arrangements, archiving and transfer arrangements, information security, data protection and shared information. It is essential that areas take cognisance of this requirement and agree Data Sharing Agreements whenever there is any anticipated regular sharing of information.

146. The Lead Professional will collate the information and coordinate the delivery of the plan, deciding who to share with and the extent of the information shared with each partner.
147. The Lead Professional may share relevant and proportionate information with partners to the plan to promote support and safeguard the child's wellbeing.
148. Section 40 provides a similar safeguard against the onward disclosure of information shared in breach of a duty of confidentiality as described in respect of section 27 above. Where the person is providing the information in breach of such a duty, they should make the recipient aware that the information they are providing is in breach of their duty of confidentiality. Further sharing of the information is not then permitted.

Section 41

Guidance on Child's Plans

149. This section provides that relevant authorities (as defined in section 45) and listed authorities (as defined in section 44) must have regard to any guidance issued by Scottish Ministers about the Child's Plan functions as set out in Part 5.
150. The Scottish Ministers are required to consult with those persons to which the guidance relates, and such other persons as they consider appropriate, before publication or revision.

Section 42

Directions in relation to Child's Plans

151. This section provides that relevant authorities (as defined in section 45) and listed authorities (as defined in section 44) must comply with the directions issued by Scottish Ministers about the Child's Plan functions as set out in Part 5.
152. As above, consultation by the Scottish Ministers is required prior to issue, revision or revocation of the directions.

Section 43

Complaints in relation to Part 5

153. This section provides an order making power so that Ministers can make provision about the making, consideration and determination of complaints relating to the exercise of functions in Part 5. Consultation will be undertaken with stakeholders on the development and detail of the provisions before any Order is laid. Guidance will cover how the complaints process should work in

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

practice, and may include matters which may be the subject of complaints and timescales for dealing with complaints.

Section 44

Listed Authorities

154. Section 44 defines “listed authorities” as those persons listed in schedule 3. This section allows the Scottish Ministers to modify this schedule in the future as required. The section also provides that certain persons are not listed authorities for the purposes of section 42 and are therefore not subject to the duty to comply with Directions made by the Scottish Ministers. The Ministers themselves are excluded from the duty to comply with directions and guidance issued under Part 5 since it would be inappropriate for the Ministers to both issue these and be subject to a duty to comply with them.

Section 45

Interpretation of Part 4

155. This section defines words and phrases used throughout Part 5. In particular it defines what “directing authority”, “relevant authority”, “parent”, “service” and “targeted intervention” mean when used in this Part.

Schedule 2 (introduced by section 31)

Relevant Authorities

156. Schedule 2 contains the list of public bodies which are considered to be ‘relevant authorities’ for the purposes of Part 4 of the legislation, The Named Person. These are:
- NHS 24
 - NHS National Service Scotland
 - Scottish Ambulance Service
 - State Hospitals Board for Scotland
 - National Waiting Times Centre Board
 - Skills Development Scotland Co. Ltd
 - Social Care and Social Work Improvement Scotland
 - The Scottish Sports Council
 - The chief constable of the Police Service Scotland
 - The Scottish Police Authority
 - The Scottish Fire and Rescue Service
 - The Commissioner for Children and Young People in Scotland
 - A body which is a “post-16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005
157. The public bodies, or individuals, listed will have a duty as the ‘relevant authority’ to help a service provider in the exercise of the Named Person service, by complying with a request for assistance from the Named Person, unless to do so would be incompatible with their normal duties, or would unduly prejudice the exercising of their functions. This means that these public bodies will have a duty to respond to a request from the Named Person for help in providing children and young people with advice, information or support; access

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

to services, or support; or responding to a matter raised by the Named Person in relation to the child's or young person's wellbeing. The guidance will outline the type of circumstances in which it may be legitimate to refuse, or question, a request for assistance.

158. There will also be an information sharing duty on the public bodies, to provide the service provider with information which they hold on a child or young person which they consider to be relevant to the functions of the Named Person, and which ought to be shared in order to promote, support or safeguard the wellbeing of the child or young person, unless it would prejudice a criminal investigation or prosecution of an offence.
159. The Named Person may also provide to the relevant authority information about a child or young person which they hold, if it is considered necessary or expedient to the functions of the Named Person.
160. This is an important aspect of the legislative provision. It underlines the importance of collaborative working to support children and young people and seeks to ensure that there can be a proportionate and appropriate flow of information between public bodies in order to support the Named Person functions and to allow public bodies to carry out their functions based on a holistic view of the child or young person where there is a wellbeing concern. Guidance will outline how the links between the service provider, Named Person, and the relevant authorities should operate and be supported by appropriate local protocols and data sharing agreements.
161. For the reasons outlined above, the public bodies and individuals listed in Schedule 2, are those which in the course of their general or specific functions, may gain and record information about a child's or young person's wellbeing which may meet the criteria to be shared with the Named Person in order to allow them to better promote, support or safeguard the wellbeing of a child or young person. These public bodies also provide services to children and young people so may require information from the Named Person, to allow them to better carry out their functions in relation to a child or young person's wellbeing. The list does not contain all public bodies which may have, or use, information about wellbeing, only those which may have information which would not generally be available to the service provider through the course of their usual functions.

Schedule 3 (introduced by section 44)

162. Schedule 3 contains the list of public bodies which are required to comply with a reasonable request for information, advice or assistance under section 40 of the Act, from a person or body who is exercising child's plan functions. These are:
 - The Scottish Ministers
 - NHS 24
 - NHS National Service Scotland
 - Scottish Ambulance Service
 - State Hospitals Board for Scotland
 - National Waiting Times Centre Board
 - Skills Development Scotland Co. Ltd
 - Social Care and Social Work Improvement Scotland

* Hyperlinks have been provided throughout the document to give easy access to additional background information on policy and to local examples of practice.

- The Scottish Sports Council
 - The chief constable of the Police Service Scotland
 - The Scottish Police Authority
 - The Scottish Fire and Rescue Service
 - The Commissioner for Children and Young People in Scotland
 - A body which is a “post-16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005
163. The public bodies, or individuals, listed will have a duty to comply with any reasonable request to provide information, advice or assistance in relation to the requirement, preparation or management of a Child’s Plan.
164. The duty on the persons listed in schedule 3 to provide information, advice or assistance will not apply where this would be incompatible with any of their duties or where it might unduly prejudice the exercise of any of their functions.
165. This means that a person working on behalf of any of the authorities listed in the schedule will be required to provide relevant information, advice or assistance in relation to the Child’s Plan, except where doing so would be incompatible with or would prejudice any function of that authority. This is to ensure that authorities preparing and reviewing a Child’s Plan are able to obtain relevant advice, information and assistance from people who have information about the child’s wellbeing.
166. The guidance will explore the detail of the duties in this section in relation to the role of the Named Person or Lead Professional as appropriate, using examples to provide clarity.
167. This section ensures that the person managing the Child’s Plan is able to utilise a network of supports to ensure they have appropriate information, advice and assistance to fulfil their duties.
168. Schedule 3 differs from schedule 2 in that The Scottish Ministers are included in schedule 3. The Scottish Ministers are a ‘service provider’ for the purposes of Part 4 (because they are under a duty to make arrangements to provide the named person service for children and young people in prison) and cannot be included in the schedule 2 list of relevant authorities which operates in respect of Part 4 only. The Scottish Ministers are, however, included in schedule 3, which operates in respect of Part 5, as they may be able to provide information, advice or assistance in relation to a Child’s Plan.



© Crown copyright 2014

You may re-use this information (excluding logos and images) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or e-mail: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

ISBN: 978-1-78412-397-0 (web only)

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

Produced for the Scottish Government by APS Group Scotland
DPPAS26878 (04/14)

Published by the Scottish Government, April 2014

w w w . s c o t l a n d . g o v . u k