

# **Analysis of Responses to the Consultation on Draft Statutory Guidance for Parts 4, 5 & 18 (Section 96) of the Children and Young People (Scotland) Act 2014**

June 2015

**ANALYSIS OF RESPONSES TO THE CONSULTATION  
ON DRAFT STATUTORY GUIDANCE FOR PARTS 4, 5 &  
18 (SECTION 96) OF THE CHILDREN AND YOUNG  
PEOPLE (SCOTLAND) ACT 2014**

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Scottish Government Social Research  
2015

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## **Abbreviations**

The following abbreviations are used throughout this report.

the Act: The Children and Young People (Scotland) Act 2014

DPA: Data Protection Act

ECHR: European Commission on Human Rights

GIRFEC: Getting It Right For Every Child

UNCRC: United Nations Convention on the Rights of the Child

## **EXECUTIVE SUMMARY**

1. The Scottish Government undertook a public consultation on the draft statutory guidance for Parts 4, 5 and 18 (Section 96) of the Children and Young People (Scotland) Act 2014 (the Act) between 6 February and 1 May 2015. The consultation contained 38 questions, and invited views on draft guidance and accompanying Orders relating to specific parts of the Act, including the definition and assessment of 'wellbeing' and the provisions for a 'Named Person' service and a 'Child's Plan'.
2. A total of 282 responses were received from 149 organisations and 133 individuals. Organisational respondents included those with a direct role in implementing the Act (local authorities, health organisations, partnership bodies and national public sector bodies) as well as a wide range of non-statutory and third sector bodies.
3. A significant proportion of respondents (28%) did not use the consultation questionnaire but provided free-text submissions. Many respondents – particularly individuals – focused on the substance of the Act rather than the detail of the guidance in their comments.

### **Views of organisations**

4. Respondents across all organisational sectors were generally supportive of the Act. They particularly welcomed the strong focus on the needs of the child, and the focus on hearing the child's 'voice'.
5. A majority of the organisational respondents (55%) agreed (at Question 1) that the guidance provided a clear interpretation of the Act to support implementation of the duties. Most of the organisations that would be directly involved in implementing the legislation agreed, while a majority of other types of organisations disagreed. Levels of agreement in relation to the other questions in the consultation varied from just under half (47%) to around nine out of ten (91%) of organisational respondents.
6. Regardless of whether they agreed or disagreed at individual questions, respondents went on to offer a range of comments on how the guidance might be clarified or otherwise improved to support implementation.
7. Respondents called for improved presentation and 'usability' of the guidance including the use of simpler language, consistent terminology, sharper definitions, and better structuring and signposting. They also wished to see greater use of diagrams, flow charts and examples. Respondents frequently highlighted the need for practice guidance (local and / or national) and / or guidance for specific professional groups.
8. Respondents asked for more clarity on the central concept of 'wellbeing' which underpinned the guidance. This concept was not thought to be sufficiently well defined to allow consistent interpretation and implementation.

9. Specific issues on which respondents frequently sought clarity or additional guidance included: information sharing; working with particular subgroups of children and young people (e.g. those with disabilities); the role of the Named Person; and the role of the Lead Professional. Respondents also asked for greater clarity on the interface between the guidance and other extant legislation, systems and procedures – this included, but was not restricted to, the Data Protection Act, the European Convention on Human Rights and child protection legislation and procedures. Complaints procedures and processes for dispute resolution were seen as notable omissions from the guidance.
10. Other wider issues raised by third sector and non-statutory organisations included the need to take account of the role of the third sector in working with, and providing services to, children and young people, and the need for a greater emphasis on a rights and asset-based approach to providing support.
11. The resource implications of the legislation and guidance were raised by a wide range of respondents. There was a concern that the demands on busy professionals (especially health visitors and senior teachers) were unrealistic.

#### **Views held by those opposed to the legislation**

12. Individuals (and a small number of organisations) generally used their response to voice opposition to the Act and to the Named Person service in particular. These comments were outwith the scope of the consultation. Therefore, the reasons given by this group of respondents for their opposition to the Act are noted briefly within the report, but the analysis focused mainly on the views of those who addressed the consultation questions.
13. Respondents who were opposed to the legislation did not generally offer comments on the detail of the guidance. However, a few did, and these respondents expressed the following views: i) teachers, health visitors and other potential Named Persons are already stretched / under pressure and they cannot take on this role without compromising their other responsibilities; ii) the Named Person has been given very wide powers, and it is not clear how they – and the Named Person service – will be made accountable; iii) offering a universal service will prevent resources being directed at those who are genuinely in need of support; and iv) the guidance is impractical, overcomplicated, unrealistic, legalistic and too vague / unclear.

# 1 INTRODUCTION

1.1 This is a report of the findings from a public consultation undertaken by the Scottish Government on draft statutory guidance for Parts 4, 5 and 18 (Section 96) of the Children and Young People (Scotland) Act 2014. The draft guidance was published on 6 February 2015 and the consultation ran for three months, with a closing date of 1 May 2015.<sup>1</sup>

## Background

- 1.2 The Scottish Government has a stated ambition of making Scotland the best place in the world to grow up. The Children and Young People (Scotland) Act 2014 (the Act) is a key part of the Scottish Government's strategy in taking forward this ambition. The Act is underpinned by a commitment to the United Nation's Convention on the Rights of the Child 1989 and by the Scottish Government's GIRFEC (Getting It Right for Every Child) approach which provides a clear framework for policy in this area.
- 1.3 The Act is a wide-ranging piece of legislation which brings together measures related to different aspects of the wellbeing of children and young people in Scotland. It is intended to support a continued shift towards prevention and early intervention in working with children and families and puts a number of key aspects of GIRFEC into statute across a range of policy areas to achieve an integrated, child-focused approach which will help deliver the best outcomes for all children.
- 1.4 The consultation invited views on draft guidance and accompanying Orders relating to the GIRFEC provisions of the Act, including the definition and assessment of 'wellbeing' and the provisions for a 'Named Person' service and a 'Child's Plan'.<sup>2</sup>
- 1.5 The concept of 'wellbeing' is integral to GIRFEC and is based on eight wellbeing indicators (sometimes referred to as 'SHANARRI'<sup>3</sup>). The Act requires the wellbeing of children and young people to be assessed against these indicators, and Section 96 provides for guidance to be issued on this.
- 1.6 The provisions for the Named Person and Child's Plan are key elements of the Act, with the relevant parts of the legislation due to be implemented in 2016. The approach to be adopted has been developed and tested over a number of years, starting with an initial Pathfinder project in Highland which aimed to establish a co-ordinated approach to assessment and planning in response to

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<sup>1</sup> Consultation inviting views on the draft statutory guidance on Parts 4 (Named Person), 5 (Child's Plan) and 18 (Section 96, Wellbeing) of the Children and Young People (Scotland) Act 2014 and draft Orders to be made under that Act. See <http://www.gov.scot/Publications/2015/02/1851/downloads>.

<sup>2</sup> Other issues dealt with by the Act, but not covered in this consultation, include kinship care, care leavers, integrated services and pre-school education.

<sup>3</sup> The eight wellbeing indicators are: safe, healthy, achieving, nurtured, active, respected, responsible and included.



children's needs.<sup>4</sup> This approach has also begun to be adopted in other areas, and the legislation and accompanying guidance are intended to ensure a level of consistency in practice as roll-out continues.

- 1.7 The guidance and accompanying Orders are aimed at those with statutory responsibility for implementing the provisions of the Act (senior leaders, managers and proprietors of organisations such as local authorities, schools and health services). Separate materials will be issued for practitioners, and for children and young people and their families.

### **The consultation**

- 1.8 The draft guidance and accompanying Orders on which the consultation was based were issued along with a consultation questionnaire. The questionnaire had 38 questions covering: the overall interpretation of the Act; wellbeing; and various aspects of the Named Person provisions including information sharing; and the arrangements for preparing and managing the Child's Plan. The questions mainly sought views about the clarity of the guidance, and most of the questions (34) had two components: a tick-box (closed) question, followed by an open question asking the respondent to explain their answer. The remaining four questions were open questions for free-text responses. In general, open questions invited respondents to say what they found helpful about the guidance and / or what they thought could be clearer.

### **Approach to the analysis**

- 1.9 Frequency analysis was undertaken in relation to all the closed questions and the findings are shown in tables throughout this report. Comments made in response to open questions were analysed qualitatively to identify the main themes (i.e. parts of the guidance that were seen to be helpful and clear; areas requiring clarification; and any concerns raised by respondents).
- 1.10 Not all respondents answered all questions, and sometimes they made comments in relation to a question without ticking 'yes' or 'no'. In these cases, no attempt has been made to impute a response to the closed question on the basis of the comments made. The reason for this is that an initial analysis of the data showed that respondents who ticked 'yes' often made the same or very similar comments as respondents who ticked 'no'.
- 1.11 Respondents made many very detailed comments and suggestions in their responses. This report primarily focuses on high-level themes. However, the detailed comments have been collated, by question, and will be available to the Scottish Government to inform further development of the guidance.

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<sup>4</sup> Evaluation reports from this project are available on the Scottish Government website at: <http://www.gov.scot/Topics/People/Young-People/gettingitright/publications/highland-report>

## 2 THE CONSULTATION RESPONSES AND RESPONDENTS

2.1 This section provides information about the respondents to the consultation.

### Number of responses received

2.2 The consultation received 282 responses – 149 from organisations and 133 from individuals. (See Table 2.1.)

**Table 2.1: Number of respondents**

Type of respondent	n	%
Organisations	149	53%
Individuals	133	47%
<b>Total</b>	<b>282</b>	<b>100%</b>

2.3 The majority of respondents (72%) submitted their response using the consultation questionnaire provided. However a significant minority of respondents (28%) provided free-text responses. These included short emails and handwritten letters, largely from individuals, as well as lengthy and detailed responses from organisations. For the purposes of analysis, material from free-text responses was assigned to individual consultation questions where this was possible. Any text that did not directly address one or more of the consultation questions was analysed separately.

2.4 Not all respondents answered all questions in the consultation. Most questions were answered by between a third and a half of all respondents, with organisational respondents generally more likely than individual respondents to directly address the questions. The questions that attracted most responses were Questions 1, 2, 7 and 23, all of which attracted comment from over half of the respondents.<sup>5</sup> Full details of the numbers responding to individual questions are shown at Annex 1.

### The respondents

2.5 Table 2.2 below provides a breakdown of the number and type of respondents who participated in the consultation. Organisational respondents included those with statutory duties in relation to the Act (local authorities, health organisations, partnership bodies and other national public sector bodies). In addition, approximately one-fifth of responses were from third sector organisations, including many that provide services to children and families.

2.6 A complete list of organisational respondents is included at Annex 2.

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<sup>5</sup> Comments submitted in free-text form were often general in nature and were allocated to Question 23.

**Table 2.2: Organisational respondents**

Type of respondent	Number of responses	%
Local authorities	18	(6%)
Health organisations	19	(7%)
Partnership bodies and joint local authority / NHS responses	18	(6%)
Other national public sector bodies	7	(3%)
Third sector organisations	53	(19%)
Professional groups, forums and trade unions and regulatory bodies	18	(6%)
Other organisational respondents	16	(6%)
Individual respondents	133	(47%)
<b>Total</b>	<b>282</b>	<b>100%</b>

\* Other organisational respondents included: Faith organisations and groups, private sector organisations, and the Children's and Youth Parliaments.

### **3 CROSS-CUTTING THEMES**

#### **Introduction**

- 3.1 The analysis of the responses to this consultation identified a number of recurring ‘cross-cutting’ themes. These themes arose repeatedly in relation to different questions, suggesting that they can be seen as ‘underlying’ or ‘underpinning’ issues. They are summarised here, while the focus of subsequent chapters is on the points made in relation to the individual questions.
- 3.2 Responses from organisations and responses from individuals were, to a large extent, qualitatively different. In general, organisational respondents addressed the consultation questions (or a subset of the questions) as posed. In contrast, most individual respondents did not engage with the consultation questions; rather they used the opportunity to state their opposition to the legislation and their reasons for this. The views of these latter respondents are captured under the final cross-cutting theme below; the other cross-cutting themes relate to the organisational responses and to the small number of individual respondents who addressed the questions.

#### **Aspects of the Act and the draft guidance that respondents found helpful**

- 3.3 Respondents across all organisational sectors were generally supportive of the Act. They particularly welcomed the strong focus on the wellbeing of the child, and the focus on hearing the child’s ‘voice’.
- 3.4 Respondents across all organisational sectors also commented positively on many aspects of the draft statutory guidance, and welcomed the clarity which the draft guidance provided. However, in many cases, respondents also went on to ask for more clarity and for further guidance on specific aspects, and / or to identify a range of concerns with the draft guidance, as set out below.

#### **Clarification of key concepts / definition of key terms / overall coherence**

- 3.5 There were many comments made by all groups to the effect that key concepts and key terms within the draft guidance (and indeed within the legislation itself) were not well defined. There was repeated reference to key concepts and terms being ‘vague’, ‘too general’ or ‘unclear’. This was seen to be problematic, in that it would lead to confusion and inconsistency in the application of the guidance.
- 3.6 Respondents asked for greater clarity about the definition of key terms, for example ‘wellbeing’, (and concepts related to wellbeing such as ‘wellbeing concerns’ and ‘risks to wellbeing’) and ‘targeted interventions’. They also queried certain phrases (e.g. ‘as far as reasonably practicable’, ‘relevant and proportionate’, and ‘likely to be relevant’), and asked for consistency in the

use of other phrases (e.g. 'wellbeing need' vs 'wellbeing concern'; 'initiate a Child's Plan' vs 'produce a Child's Plan').

- 3.7 There was comment that the overall coherence of the draft guidance would be improved by making more explicit the linkages between the section on wellbeing and other parts of the draft guidance. This would allow the document to bring out the importance of the concept of 'wellbeing' to the proposals contained in the Act (and the guidance).

### **Presentational issues relating to the draft guidance**

- 3.8 All groups made suggestions about the presentation of the guidance, and how it could be improved. Comments related both to the style and content of the guidance.
- 3.9 It was recognised that the guidance was covering complex material. However, it was thought the guidance would benefit from 'a general edit' to simplify the language, limit the use of legal terminology, reduce repetition and improve flow. The headings / subheadings structure was seen as overly complex.
- 3.10 There were different views about the preferred length, and amount of detail in the guidance. Respondents frequently suggested that some aspects of the guidance would benefit from the inclusion of more (and better) examples, or case studies to illustrate the points being made, as well as more flowcharts and diagrams to improve understanding and increase readability. However, others suggested that the guidance should be made more succinct, and focus at a higher level on the statutory issues. This latter group sometimes suggested that additional examples would be more appropriate to include in the context of operational / practice guidance (see below).
- 3.11 Respondents found the use of cross-references to other legislation, guidance and conventions difficult and confusing. They wanted the guidance to be more self-contained.

### **The need for practice guidance / local guidance / and information materials**

- 3.12 In general, respondents across all groups highlighted the need for practice guidance / operational guidance / local guidance, accompanied by appropriate training.
- 3.13 Respondents also emphasised the importance of appropriate information materials for children, young people and parents and thought these should be developed in partnership with these groups.

### **A nationally consistent approach vs local flexibility**

- 3.14 There were differing views on the extent to which the guidance should allow local flexibility in relation to implementation. Whilst some favoured a national

approach, which focused on achieving maximum consistency, others thought a more local approach would be appropriate. A third suggestion was that a national protocol should inform guidance at the local level.

- 3.15 Respondents were keen to see national approaches to, in particular: training; information provision; 'standards' of wellbeing; thresholds and timescales for action; holiday cover; and information sharing.

### **Guidance on accountability and governance arrangements**

- 3.16 There was thought to be insufficient guidance in relation to the accountability and governance arrangements which would underpin this legislation. This was most often requested in relation to the Named Person service.
- 3.17 These requests were sometimes prompted by the observation that the role of the Named Person and / or the Named Person service was very wide ranging, or by the observation that the powers of the Named Person were not clear (especially in relation to the development of the Child's Plan, and the role of the Named Person in getting other professionals to provide information, and agree to deliver targeted interventions). Respondents therefore asked for accountability arrangements to be put in place to clarify the powers of the Named Person as well as aspects of the relationship between the Named Person and the Lead Professional, to ensure that any decisions made could be challenged, reviewed, and appealed.
- 3.18 The arrangements would also: make clear how parents / families could 'opt out' (of the Named Person service); clarify the circumstances in which parents could legitimately be excluded from decision making; describe the safeguards which would be set up to prevent or minimise breaches of privacy; and set out the approach to be taken if the relationship between a Named Person and a child / family breaks down; and set out provision for a complaints procedure.
- 3.19 Respondents also wanted to see monitoring and evaluation arrangements put in place to assess the impact of the legislation and whether targeted interventions are achieving the outcomes expected.

### **Concerns about information sharing**

- 3.20 Concerns about information sharing were raised in relation to all parts of the draft guidance, but especially in the sections which focused on this issue. Respondents were often unclear about the arrangements, and how they did (or did not) reflect the provisions of the Data Protection Act. There was concern about potential breaches of privacy, and about confidentiality. It was thought to be difficult (and possibly unrealistic) for large numbers of people (including all those who are appointed as Named Persons) to have an in-depth knowledge of the law in this area.

### **Guidance in relation to specific subgroups**

- 3.21 Respondents often asked for more detail and clarity about the arrangements for specific subgroups, particularly for those who were vulnerable, or who had complex needs. The list of specific subgroups mentioned in this context included: those with disabilities (especially those with learning disabilities and communication difficulties), those who are looked after, care leavers, those excluded from school, those who do not attend school (including those who have left school), those who attend a school outside their local authority area of residence, those in secure care or prison, and those who move across borders.

### **Guidance on transitions – geographic / life course / systems**

- 3.22 Respondents highlighted that transitions of different kinds could result in a lack of continuity, or a breakdown in services or provision. They therefore requested more guidance in relation to how the arrangements would work across transitions of geography (where children and young people move from one place to another), of life-course stages (from, for example, early years settings to school, or from child to adult services), and of systems (from, for example, secure accommodation to residential or foster care).

### **The role of the third sector**

- 3.23 There was comment, mainly from the third sector but also from other organisational respondents, that there needed to be more consideration given to the relationship between the statutory sector and the third sector (particularly in relation to the role of the third sector in delivering services, acting as Lead Professional and in relation to information sharing).

### **Congruence with other legislation and systems**

- 3.24 Throughout their responses, respondents commented on the extent – or lack – of congruence between this legislation and other extant legislation and systems. The comments most often related to the Data Protection Act (in relation to information sharing) or to the European Convention on Human Rights. Respondents also offered comments on the congruence with other legislation including: the Education (Additional Support for Learning) (Scotland) Act 2004, the Education (Scotland) Bill, the Children (Scotland) Act 1995 and the Social Care (Self-directed Support)(Scotland) Act. Legislation focused on child protection was also noted.
- 3.25 The relationship between the guidance and existing regulations and systems (e.g. child protection systems and procedures, the Children’s Hearing system, compulsory care and existing referral routes for services) was also raised.

### **Issues relating to implementation, workload and resources**

- 3.26 Respondents repeatedly raised questions about issues of implementation, especially in relation to the availability (or lack of availability) of capacity and resources to deliver this legislation.
- 3.27 The professionals who were most likely to have the role of Named Persons (health visitors and teachers) were thought to be stretched already. Respondents questioned how they could take on this additional responsibility without compromising their existing duties. More generally, respondents discussed the support and training which Named Persons would require.
- 3.28 It was also thought that resources would be required for: IT infrastructure and systems; systems for communicating with the general public, with children, young people and their families about the legislation; and administrative support for those carrying out Named Person duties.

### **Views held by those opposed to the legislation**

- 3.29 Individual respondents to the consultation were, in most cases, opposed to the Act and to the Named Person service in particular. These respondents did not generally engage with the consultation questions as posed, but rather repeated their reasons for opposing the provisions of the Act at almost every question. A few organisational respondents also made similar comments.
- 3.30 The main reasons given for their opposition were that: i) the definition of 'wellbeing' is vague, which will lead to a high degree of subjectivity in decisions to intervene; ii) the threshold for intervention is low and there will be widespread – and often unnecessary – intervention; iii) the views of parents have been side-lined which was seen to be inappropriate given their primary responsibility for the wellbeing of their children; iv) the right to 'opt out' of the Named Person service had not been made clear; and v) the legislation gives the state too much power and conflicts with Human Rights legislation which provides the right to a private family life.
- 3.31 A small number of the respondents within this group also expressed some concerns about the guidance and / or its implementation. They thought that: i) teachers, health visitors and other potential Named Persons are already stretched / under pressure and they cannot take on this role without compromising their other responsibilities; ii) the Named Person has been given very wide powers, and it is not clear how they – and the Named Person service – will be made accountable; iii) offering a universal service will prevent resources being directed at those who are genuinely in need of support; and iv) the guidance is impractical, overcomplicated, unrealistic, legalistic and too vague / unclear. These latter points were also sometimes made by those who did not oppose the legislation per se.



## 4 OVERALL VIEWS

4.1 The purpose of the statutory guidance is to offer a clear interpretation of Parts 4, 5, and 18 (Section 96) of the Act to support implementation. As such, it is aimed at those with statutory responsibility for implementing the provisions of the Act. As well as addressing the detail of the draft guidance, the consultation sought views on whether this overall purpose was achieved.

### Q1: Overall views on whether the draft guidance supports implementation

4.2 Question 1 asked: ‘Overall, do you think that the draft guidance gives a clear interpretation of the Act to support organisations’ implementation of the duties?’ Table 4.1 shows that 55% of organisations and 2% of individuals agreed, while 45% of organisations and 98% of individuals disagreed.

**Table 4.1: Question 1**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	13	(76%)	4	(24%)	17	(100%)
Health organisations	11	(69%)	5	(31%)	16	(100%)
Partnership bodies and joint responses	9	(60%)	6	(40%)	15	(100%)
Other national public sector bodies	5	(100%)	0	(0%)	5	(100%)
Third sector organisations	15	(42%)	21	(58%)	36	(100%)
Professional groups	5	(42%)	7	(58%)	12	(100%)
Other organisational respondents	3	(33%)	6	(67%)	9	(100%)
<b>Total organisations*</b>	<b>61</b>	<b>(55%)</b>	<b>49</b>	<b>(45%)</b>	<b>110</b>	<b>(100%)</b>
Individual respondents	1	(2%)	45	(98%)	46	(100%)

\* Two respondents ticked both ‘yes’ and ‘no’. These responses are not included in the table. Percentages do not all total 100% due to rounding.

4.3 Most of the organisations that would be directly involved in implementing the legislation (local authorities, health organisations, partnership bodies and other national bodies) agreed, while a majority of other types of organisations disagreed.

4.4 Altogether 144 respondents (109 organisations and 35 individuals) made comments at Question 1.

4.5 Question 1 was intended to give an overall view on whether the interpretation of the relevant sections of the Act would support implementation. However, respondents frequently provided comments on the legislation or guidance as a whole and the wider challenges related to implementation. Many of the ‘cross-cutting’ themes discussed previously in Chapter 3 of this report were raised at Question 1. Some respondents also used the opportunity to set out the background to their comments in relation to the more detailed questions which followed.

- 4.6 On balance, respondents thought that the draft guidance offered a reasonably clear interpretation of the Act for strategic purposes, which would support organisations in implementing their duties. In particular, the general introduction in Section 1 was clear and useful in summarising the principles and basis of the Act. However, these positive comments were frequently qualified and respondents often stated that the principles were not reflected consistently in the detail of the guidance, which could have implications for implementation.

### ***Comments and concerns about the guidance***

- 4.7 Irrespective of whether they ticked 'yes' or 'no' at Question 1, respondents often highlighted concerns or put forward suggestions as to how the guidance might be revised to better support implementation. The remainder of this chapter presents views from respondents more likely to have a statutory role in implementing the Act (local authorities, health organisations, partnership bodies and other national public bodies), before considering the views of other respondents.

### ***Views of 'implementers'***

- 4.8 While some in this group thought the guidance provided sufficient clarity to support implementation, respondents more commonly expressed a range of concerns about the guidance or about implementation of the Act more generally, and offered comments as follows:
- The guidance was too long, complicated and repetitive; it needed to be clearer, more concise and easier to navigate.
  - Language and terminology needed to be used consistently.
  - The guidance included a mix of strategic and practice guidance and this might usefully be separated out.
  - The guidance should include more examples, diagrams and flow charts – there was a strong view that the statutory guidance needed to be accompanied by practice guidance (national, local or both).
- 4.9 There was a range of views about the degree of local flexibility which should be offered in the guidance. Although some were supportive of this and found it helpful, respondents more frequently expressed concern about this and favoured national approaches which would limit inconsistencies.
- 4.10 These same points were also raised across the individual questions, although the following chapters focus, as far as possible, on points specific to the individual questions.
- 4.11 Specific points on which respondents sought clarity to support implementation included: information sharing; the role of the Lead Professional; the interface with other systems, services, legislation and professions, including the links

with the child protection system; and application of the guidance to specific groups. Dispute resolution procedures were noted as a particular omission.

- 4.12 There was also concern about the timescales for implementation and whether service providers would be ready, and the resource implications of delivering the service.

#### *Views of third sector and other respondents*

- 4.13 Many of the points noted above were echoed by third sector and other organisations (e.g. the view that the guidance was too long and complicated; the call for practice guidance; the wish to see more guidance about particular groups). Alongside these points, however, this group of respondents raised a number of wider points, including the following:

- The guidance needed to give more prominence to children's rights, and take a more asset-based approach with greater emphasis on working in partnership with families and children and young people.
- More work was needed to embed the principles of GIRFEC, preventative action and early intervention, and initiatives such as the 'Common Core'.
- The guidance needed to acknowledge the different local contexts (e.g. different service availability and configurations and how this might impact on equity of provision and outcomes for children and young people).
- Consistency of approach was particularly important for third sector and other organisations operating at a national level and dealing with a range of local authorities and health boards.
- The guidance needed to take more account of the role and contribution of the third sector in supporting children and families.

#### *Views of individual respondents*

- 4.14 Individuals largely used this question to voice their opposition to the Act. Those offering more detailed comments thought the guidance was complex and unclear and offered too much scope for local or individual discretion. There were calls for the guidance to be prefaced with a clear statement about the role of parents, and the right to 'opt out' from the Named Person service.

## 5 WELLBEING

- 5.1 Section 2 of the draft statutory guidance concerned what is meant by the term ‘wellbeing’ in relation to children and young people in the context of the Act. This section of the draft guidance related specifically to Part 18, Section 96 (1–7) of the Act. However, the concept of wellbeing underpins the Act as a whole and is fundamental to understanding the other parts of this guidance.
- 5.2 The consultation asked four questions about Section 2. Questions 2 and 5 sought general views on wellbeing as discussed in the draft guidance, while Question 3 asked specifically about explanations of the eight wellbeing indicators and Question 4 covered descriptions and examples of wellbeing concerns.
- 5.3 There was a great deal of overlap in responses to these four questions. Thus, respondents’ views are discussed in terms of the specific focus of the questions in the following discussion. Issues which were raised frequently in responses to Questions 2–5 (in particular, the interface between wellbeing and child protection, and inconsistencies between the draft guidance on wellbeing and the GIRFEC principles) are discussed in the analysis of Question 2 and are not mentioned again in this chapter to avoid repetition.

### ***Q2: Definition of wellbeing in the context of the Act***

- 5.4 Question 2 referred to Section 2 of the guidance as a whole and asked, ‘Do you think the draft guidance on wellbeing provides clarity about what wellbeing means in the context of the Act?’ Table 5.1 below shows that 72% of organisations and 5% of individuals agreed, while 28% of organisations and 95% of individuals disagreed.

**Table 5.1: Question 2**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	15	(94%)	1	(6%)	16	(100%)
Health organisations	14	(88%)	2	(13%)	16	(100%)
Partnership bodies and joint responses	11	(79%)	3	(21%)	14	(100%)
Other national public sector bodies	5	(100%)	0	(0%)	5	(100%)
Third sector organisations	14	(50%)	14	(50%)	28	(100%)
Professional groups	7	(70%)	3	(30%)	10	(100%)
Other organisational respondents	5	(50%)	5	(50%)	10	(100%)
<b>Total organisations*</b>	<b>71</b>	<b>(72%)</b>	<b>28</b>	<b>(28%)</b>	<b>99</b>	<b>(100%)</b>
Individual respondents	2	(5%)	39	(95%)	41	(100%)

\* Two respondents ticked both ‘yes’ and ‘no’. These responses are not included in the table. Percentages do not all total 100% due to rounding.

- 5.5 Altogether, 105 respondents (96 organisations and 9 individuals) provided comments at Question 2.

- 5.6 There were many positive comments about the guidance on wellbeing and efforts to set out a workable definition of a complex concept. Some found the guidance easy to understand and the examples useful. They described it as clearly laid out, and thought it provided a useful reminder of other information that was already available elsewhere.
- 5.7 Respondents thought the links to and reiteration of the wellbeing indicators were helpful in showing the multidimensional nature of the concept and how the wellbeing domains interact. The emphasis on a holistic approach to wellbeing and recognition that children and young people can thrive in different circumstances was welcomed, as was the focus on identifying strengths as well as concerns in assessing wellbeing. Some thought that the definition could be helpful in encouraging professionals to work together to meet the needs of the whole child and in supporting more consistent use of the wellbeing indicators. Respondents also thought that the links between the draft guidance and the UNCRC were helpful.

### ***Issues requiring clarification or additional guidance***

- 5.8 Despite a generally positive response to the wellbeing guidance, some organisations described it as too vague and open to subjective interpretation. Some felt that sharper definitions were required for operational purposes and that the draft guidance was not clear enough to deliver the aims of the Act. A number of themes emerged from the comments, as discussed below.

#### *Use of terms*

- 5.9 Respondents frequently noted that the terms ‘wellbeing need’, ‘wellbeing concern’ and ‘wellbeing risk’ were used interchangeably and inconsistently and that they were not clearly defined. They thought that a clearer distinction was essential in order to implement the Act effectively and consistently. Some also thought that a distinction should be made between ‘measuring’ and ‘assessing’ wellbeing and that one term should be used throughout.

#### *Interface between wellbeing and child protection*

- 5.10 A major concern was a lack of clarity around the interface between child protection and wellbeing, and the idea of a ‘continuum of wellbeing’. Organisations wanted further clarification on how the concept of wellbeing fits with the concept of (significant) harm and thresholds for child protection in order to ensure that children are protected. Respondents stressed that the need for timely intervention in respect of child protection should not be overlooked in the broader process of assessing wellbeing. On the other hand, the lack of clarity on where child protection sits on the wellbeing continuum could result in child protection measures being put in place when a more measured, preventative approach would be more appropriate.

### *Interface between wellbeing and welfare*

- 5.11 Organisations identified a lack of clarity in defining and using the terms 'wellbeing assessment' in terms of the Act and 'welfare assessment' in terms of the Children's Hearings system. This was a particular issue for young people of 16 and over who are, or have been, looked after or who require 'continuing care'. However, it was also suggested that 'welfare' should be considered synonymous with 'wellbeing' in terms of the Act.

### *Inconsistency and lack of clarity in the wellbeing indicators*

- 5.12 Respondents questioned if the wellbeing indicators outlined in the guidance were, in fact, 'indicators', 'outcomes' or 'descriptors'. Some identified a need for a framework of wellbeing outcomes and of indicators to support a consistent approach to assessment and service provision.
- 5.13 Some suggested the guidance should make clearer where and how the indicators are to be used, who will use them and for what purpose. Respondents also sought more detail on how the indicators will operate in the context of other legislation and guidance.
- 5.14 Respondents identified a need for greater clarification of the following:
- How the guidance on wellbeing practically supports preventative measures and early intervention, and children's rights in line with the UNCRC
  - What is meant by 'resilience' and 'promoting resilience', and the concept of risk and risk assessment in assessing wellbeing
  - The identification of strengths and how assets in some wellbeing domains could offset concerns in others
  - The assessment process and the range of tools for assessing wellbeing
  - How to involve children and young people in assessing their wellbeing.

### ***Other comments and issues***

- 5.15 In relation to the definition of wellbeing, respondents also highlighted:
- A need for further work on public perceptions and parents' and carers' understanding of wellbeing
  - Concern about significant variation between professional groups on what constitutes wellbeing
  - The need for a stronger emphasis on partnership working and on the role of third sector organisations in assessing wellbeing
  - Other factors which impact on wellbeing which should be included, for example: the mental, social and emotional health of the child, developmental issues and the wider role of play in wellbeing.

- 5.16 Some respondents, particularly those in the third sector, suggested that the draft guidance did not sufficiently reflect the principles underpinning the Act, in particular the lack of focus on strengths in the explanations of wellbeing indicators and in the guidance on identification and assessment of wellbeing concerns. Respondents also suggested that the descriptions of the wellbeing indicators should be more consistent with the rights-based approach implicit in the legislation which was based on the UNCRC. It was suggested that a stronger focus on outcomes rather than concerns might result in a more positive, rights-based approach.
- 5.17 Some respondents thought that the draft guidance could do more to reflect the importance of prevention / early intervention in wellbeing by giving greater emphasis to this underlying principle throughout. More mention could be made of the role in prevention and early intervention of existing mechanisms including multi-disciplinary screening groups and population health measures.

### **Views from individual respondents**

- 5.18 Some individual respondents thought the definition of wellbeing was helpful in recognising that children and young people can thrive in a range of circumstances. However, they considered that, overall, it was too vague and open to subjective interpretation, and that clearer definitions of wellbeing and of indicators of wellbeing were required. Their comments reflected general concerns about the Act as a whole.

### **Q3: Indicators of wellbeing**

- 5.19 Subsection 2.5 of the guidance defines each of the wellbeing indicators as set out in Part 18, Section 96(2) of the Act, and points out in 2.5.2 that they are not discrete, but connected and overlapping. Question 3 referred to subsection 2.5 and asked: 'Are the explanations of the eight wellbeing indicators helpful?' Table 5.2 shows that 82% of organisations and 19% of individuals agreed, while 18% of organisations and 81% of individuals disagreed.

**Table 5.2: Question 3**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	16	(100%)	0	(0%)	16	(100%)
Health organisations	13	(87%)	2	(13%)	15	(100%)
Partnership bodies and joint responses	15	(100%)	0	(0%)	15	(100%)
Other national public sector bodies	4	(100%)	0	(0%)	4	(100%)
Third sector organisations	18	(58%)	13	(42%)	31	(100%)
Professional groups	11	(92%)	1	(8%)	12	(100%)
Other organisational respondents	5	(71%)	2	(29%)	7	(100%)
<b>Total organisations</b>	<b>82</b>	<b>(82%)</b>	<b>18</b>	<b>(18%)</b>	<b>100</b>	<b>(100%)</b>
Individual respondents	7	(19%)	30	(81%)	37	(100%)

Percentages do not all total 100% due to rounding.

- 5.20 Altogether, 123 respondents (97 organisations and 26 individuals) commented further on the wellbeing indicators.
- 5.21 Respondents provided general comments on the indicators as a whole, and also specific comments in respect of each of the eight indicators.
- 5.22 The majority of organisations considered that the descriptions and examples of indicators were clear, generally consistent and helpful for practice. They thought it was helpful that the draft guidance described the indicators as overlapping rather than discrete and they also welcomed the links with UNCRC and SHANARRI.

***General issues about the indicators for clarification or additional guidance***

- 5.23 Despite a generally positive response, organisations raised some general issues about indicators and the way in which they were presented. There were concerns that the descriptions were very broad and vague and therefore open to subjective interpretation. Respondents were concerned that the inconsistency in tone, style and structure would lead to inconsistency in identifying and assessing wellbeing in practice. Some respondents suggested that the Scottish Government should check that the descriptions were consistent with other versions of the wellbeing indicators available in GIRFEC guidance, and that a link should be provided to definitive descriptions.
- 5.24 Some organisations suggested the draft guidance would be enhanced if the indicators subsection was linked to a clearer description of ‘the wellbeing continuum’. A greater focus on the integrated nature of the indicators with more explicit examples of the way in which they overlap might ensure that practitioners did not assess them separately. However, others noted concern about the overlap and thought the descriptions in the draft guidance should be more specific to promote consistency in practice and assessment.
- 5.25 Organisations wanted clearer guidance on how the indicators should be used in practice to assess a child’s wellbeing. Respondents saw a need for more detailed descriptions and more specific ‘real world’ examples to ensure consistent interpretation and a shared understanding of the principles and implications of the Act among Named Persons, Lead Professionals, practitioners, parents / carers and the public. Respondents frequently sought clarity on who should use the indicators, and how the indicators would be used with particular groups including looked-after children and those with disabilities.
- 5.26 Some organisations thought the indicators did not provide a coherent framework for assessing wellbeing and that the Scottish Government should instead develop an outcomes framework, dataset, and related indicators as



part of national practice guidance. More clarity on how the indicators relate to outcomes and how outcomes can be measured was also requested.

### ***Specific comments about the indicators***

- 5.27 Some respondents thought that the explanations of the indicators should more clearly reflect the age and stage of children and young people, in particular very young children, and young people aged 16 to 26 covered by the Act. Others suggested that they were not always relevant to children and young people with complex disabilities or looked-after children, and adjustments should be made to reflect these groups.
- 5.28 Many respondents provided specific comments about and amendments to the individual indicator explanations. These included:
- Recognising the need for children and young people to learn to manage risk, which was covered under 'active' but not under 'safe'
  - Including emotional and mental as well as physical health under 'healthy'
  - Recognising children and young people's right to be heard and involving them in decisions that affect them, and also respecting their choices and autonomy under 'respected' and 'responsible'
  - Greater emphasis on supporting children and young people in expressing their perceptions and views including communication, advocacy and other appropriate support under 'respected'
  - Concern that the explanation of 'responsible' was not age or stage appropriate, was too prescriptive and inconsistent with the child-centred approach of GIRFEC
  - 'Responsible' should be described in more positive, assets-based terms
  - The description of 'included' should be linked more clearly to 'respected'.

### ***Other comments / issues raised***

- 5.29 Respondents frequently mentioned the need for training for Named Persons, practitioners and professionals in understanding and using the indicators for assessment and action. They also noted the need for training in getting the views of children and young people, especially those with communication difficulties or other disabilities.

### ***Views of individual respondents***

- 5.30 Some individual respondents found the breadth of the indicators helpful and thought they represented good parenting. However, it was more usual for individuals to say they were too broad and too open to subjective interpretation to be useful. Concerns were expressed about the need for more specific thresholds for intervention. Some suggested that the indicators should reflect the impact of real harm or disadvantage to ensure that resources were focused on those children who need them most.

#### Q4: Wellbeing concerns

- 5.31 Subsection 2.7 of the draft guidance describes wellbeing concerns and who might identify them based on observation and assessment. It points out the importance of context and other information in identifying concerns, together with examples, and describes a continuum of severity. Examples of wellbeing concerns are listed under each of the wellbeing indicator headings, recognising that indicators may overlap and that the list is not exhaustive.
- 5.32 Question 4 referred to Section 2.7 in the guidance and asked, 'Are the descriptions and examples of wellbeing concerns sufficiently clear and helpful?' Table 5.3 shows that 63% of organisations and 9% of individuals agreed, while 38% of organisations and 91% of individuals disagreed.

**Table 5.3: Question 4**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	12	(75%)	4	(25%)	16	(100%)
Health organisations	13	(87%)	2	(13%)	15	(100%)
Partnership bodies and joint responses	7	(50%)	7	(50%)	14	(100%)
Other national public sector bodies	2	(67%)	1	(33%)	3	(100%)
Third sector organisations	15	(50%)	15	(50%)	30	(100%)
Professional groups	7	(70%)	3	(30%)	10	(100%)
Other organisational respondents	4	(50%)	4	(50%)	8	(100%)
<b>Total organisations*</b>	<b>60</b>	<b>(63%)</b>	<b>36</b>	<b>(38%)</b>	<b>96</b>	<b>(100%)</b>
Individual respondents	3	(9%)	31	(91%)	34	(100%)

\* Two respondents ticked both 'yes' and 'no'. These responses are not included in the table. Percentages do not all total 100% due to rounding.

- 5.33 Altogether, 125 respondents (100 organisations and 25 individuals) made comments. In general, organisations found the descriptions and examples of wellbeing concerns helpful and they welcomed the emphasis on context and holistic assessment of the wellbeing of children and young people.

#### ***Aspects of the draft guidance requiring greater clarity***

- 5.34 Although respondents generally thought the descriptions and examples of wellbeing concerns were helpful, they often considered that the level of detail was inappropriate for statutory guidance and that the descriptions and examples would be better set out in practice guidance. Others suggested that the descriptions and examples could usefully be clearer, more detailed, and more relevant to practice. Still others suggested that the distinction between statutory, operational and practice guidance was unclear in subsection 2.7 and that it was important to understand what was required by statute as opposed to professional judgement or practice.

- 5.35 Respondents frequently asked for clarity about the definitions of a wellbeing need, concern and risk. In particular, the references to ‘wellbeing needs’ in 2.7.1 blurred the distinction with ‘wellbeing concerns’ which was the intended focus of 2.7. There were also concerns about inconsistent use of terms between the Act and the guidance, and between the draft guidance and other advice and guidance on GIRFEC.
- 5.36 Paragraph 2.7.2 of the guidance included examples of situations which might give rise to a wellbeing concern and it was suggested that they could be more varied and include the impact of parental behaviour and issues on a child or young person’s wellbeing. Some respondents suggested the inclusion of examples of maternity-related problems that might impact on a child’s wellbeing at birth; specific concerns related to poverty and inequality; and post-school transition. Others sought more clarity around the implications of ‘socioeconomic circumstances’.
- 5.37 The statement in 2.7.2 that a wellbeing concern may be identified by a child or young person, or anyone who knows or supports them, was widely welcomed. However, some considered the focus in 2.7.4 on professional judgement in assessment, without reference to input from a child, parent or carer, was less helpful. As noted previously, respondents saw the potential for significant variation between professionals in what constitutes wellbeing. Thus, it was suggested that responsibility for identifying wellbeing concerns should be shared and it would be important to engage with other practitioners and professionals as well as with children, young people and families to understand concerns in a wider context. Third sector organisations thought that their role in identifying and addressing wellbeing needs could also be clarified in this paragraph.
- 5.38 Respondents described the examples in 2.7.5 as helpful in illustrating the importance of considering context and other information in identifying wellbeing concerns but they suggested that they should also specifically refer to the wellbeing indicators to demonstrate how multiple indicators interact. There was a view that, while the examples illustrated the importance of context, they failed to help strategic or operational managers understand how the duties upon them would work in practice. Following up examples used in Section 2 in later sections of the draft guidance might provide a clearer sense of the process as a whole.
- 5.39 Respondents again raised concerns about thresholds for identifying wellbeing concerns and for action in the context of 2.7. They thought greater clarity was needed in references to a ‘continuum of severity’ in 2.7.6 and sought national practice guidance to help them understand where different concerns might sit on the continuum from a ‘minor adverse effect’ to a child protection concern. Related to this, some respondents wanted a clearer definition of what constitutes an ‘adverse effect’ in 2.7.4 and suggested the Scottish

Government provide greater clarity about 'standards' in moving towards a broad concept of wellbeing.

- 5.40 Some respondents thought that more emphasis should be given to the overlapping nature of wellbeing concerns in subsection 2.7.7 and to the fact that the list of examples is illustrative and limited. Some were concerned that the examples might be seen as prescriptive which could lead to a narrow understanding of the indicators among individual practitioners.
- 5.41 There was a suggestion that the examples tended to focus on parental neglect or poor parenting and although relevant, a better balance could be achieved. Some suggested that more examples of situations where support to parents or carers could impact positively on children's wellbeing would be helpful. Other respondents noted that behaviour giving rise to a wellbeing concern may, in fact, indicate or mask other underlying issues or causes, and it was important that practitioners were aware of this. Some also suggested that the examples could usefully include more on mental and emotional health, and communication and physical disabilities.

### ***Views of individual respondents***

- 5.42 Individual respondents commented on the lack of clarity in the definitions of 'a wellbeing concern' and 'adversely affected', and also the threshold for identifying a concern and for intervention. The examples were described as limited and anecdotal.

### **Q5: Other comments on draft guidance on wellbeing**

- 5.43 Question 5 invited respondents to provide any other general comments about the draft guidance on wellbeing. Altogether, 132 respondents (98 organisations and 34 individuals) made comments.
- 5.44 In general, respondents reiterated points made in response to Questions 2–4. However, they also took the opportunity to provide detailed comments on parts of Section 2 not covered by the other questions. Some clear themes emerged but there were also many detailed points about the subsections and frequent comments about how the guidance in Section 2 relates, or fails to relate, to other parts of the guidance and to the Act itself.

### ***Aspects of the draft guidance requiring more attention and clarity***

#### ***Lack of clarity in the draft guidance on wellbeing for young people of 16 and over***

- 5.45 The guidance explains that the Act requires a Child's Plan for children and young people from birth to 18 years who are identified as having a wellbeing need which requires to be met by a targeted intervention (2.11). Organisations sought more guidance on assessing and addressing wellbeing needs for young people from 16 to 18 who may be in transition from school. Some felt

that the guidance was oriented more towards younger children and the early years and that the wellbeing indicators needed to be made more relevant to young people and adolescents.

- 5.46 There was also a lack of clarity and consistency in the draft guidance in 2.13 on wellbeing for young people from 16 to 26 years who were, or who had been looked after (Part 9 of the Act) or required continuing care (Part 11 of the Act). It was unclear how the assessment of welfare for this group relates to the assessment of wellbeing, and there were concerns that assessing welfare using the wellbeing indicators might not be in the best interests of these young people. It was also unclear how the wellbeing needs of older young people would be addressed. There were concerns about the interface with adult services for this group.

### *Implementation issues*

- 5.47 Respondents welcomed the five practitioner questions set out in 2.8.5 which were intended to help Named Persons to decide what action, if any, was required in following up a wellbeing concern. Some suggested adding a first question, 'Is the child safe?', or one about identifying positive wellbeing outcomes for the child, while others suggested a final question about whether the views of the child or young person and parents / carers had been considered. Some thought the questions focused too much on the individual child and should also reflect the role of the Named Person in supporting parents and carers as set out in 4.1.2 of the draft guidance. This has implications for sharing information and some thought more guidance was required on how professionals and Named Persons can interact with adult services and parents / carers to take account of parent / carer wellbeing.
- 5.48 Some respondents thought that the focus on the wellbeing of the child could lead to overlooking the impact on the child of the parent / carer's wellbeing and also underlying causes of wellbeing concerns. It was suggested that the guidance should be more explicit about how wellbeing assessments can take the wider factors affecting the child's wellbeing into account and seek to address these through services that support the wider family and community as well as the child. The point was also made that the focus on the individual child and their parents / carers led to individual circumstances being seen as 'the problem' when wellbeing concerns might reflect structural problems in society such as poverty and discrimination.
- 5.49 Respondents highlighted concerns about possible differences between Named Persons, practitioners and other professionals in their understanding, experience and knowledge of wellbeing for children and young people, and between services in meeting wellbeing needs. This could lead to conflict and inconsistency and pointed to a need for dialogue between Named Persons and other practitioners, and to joint training to ensure a shared understanding of wellbeing and its assessment.

- 5.50 A need for monitoring and evaluation of the impact of the approach on the wellbeing of children and young people was mentioned. Respondents discussed the need for further work to develop an outcomes framework and an increased focus on outcomes. Some called for a national level evaluation of the impact of the legislation and guidance on undertaking evaluation at a local level.

***Views of individual respondents***

- 5.51 Although more individual respondents commented on Question 5 than on Questions 2–4, they mainly restated their fundamental disagreement with aspects of the Act. Some thought the draft guidance was too ambiguous to ensure children were protected. There were concerns about inconsistency between the guidance and the Act and within the draft guidance itself about the involvement of parents / carers in assessment. The role of the Named Person was a particular concern in relation to sharing information, interference in family life, and the potential for disagreement with parents over assessment. Others considered that the Act was an infringement of civil liberties and an unreasonable extension of state control over people's lives.

## 6 THE NAMED PERSON SERVICE: PROVISION OF THE SERVICE

- 6.1 Section 4 of the guidance covered the duties of organisations in providing the Named Person service. It covered organisational arrangements for delivering the service; qualifications, training, and experience for those acting as Named Persons; the functions of the Named Person; and requirements relating to continuity of service. The guidance related to Section 19 of the Act.
- 6.2 Each of these different elements of the guidance was addressed in the consultation questions, and will be discussed below.

### Q6: Named Person service: Organisational arrangements

- 6.3 Question 6 related to paragraphs 4.1.3 – 4.1.4 of the guidance and asked: ‘Is the draft guidance clear on the organisational arrangements which are to be put in place by the service provider to support the functions of the Named Person?’ Table 6.1 shows that 76% of organisations and 6% of individuals said ‘yes’, while 24% of organisations and 94% of individuals said ‘no’.

**Table 6.1: Question 6**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	12	(75%)	4	(25%)	16	(100%)
Health organisations	12	(80%)	3	(20%)	15	(100%)
Partnership bodies and joint responses	12	(80%)	3	(20%)	15	(100%)
Other national public sector bodies	4	(100%)	0	(0%)	4	(100%)
Third sector organisations	19	(76%)	6	(24%)	25	(100%)
Professional groups	5	(56%)	4	(44%)	9	(100%)
Other organisational respondents	4	(67%)	2	(33%)	6	(100%)
<b>Total organisations*</b>	<b>68</b>	<b>(76%)</b>	<b>22</b>	<b>(24%)</b>	<b>90</b>	<b>(100%)</b>
Individual respondents	2	(6%)	32	(94%)	34	(100%)

\* One respondent ticked both ‘yes’ and ‘no’. This response is not included in the table. Percentages do not all total 100% due to rounding.

- 6.4 In general, respondents across all sectors thought that the guidance was clear in relation to organisational arrangements which should be put in place. However, professional groups were more divided in their views.
- 6.5 Altogether 110 respondents (91 organisations and 19 individuals) provided comments. This section of the guidance presented a summary of duties placed on Named Person service providers. Many of the comments made, however, were relevant to the detailed guidance presented in later sections of the document and are covered in subsequent chapters of this report.

### *Aspects of the guidance respondents found helpful*

- 6.6 Those respondents commenting positively on this part of the guidance thought it provided a useful overview of the duties on service providers. Third

sector respondents particularly welcomed the reference to partnership working in this section.

### ***Comments and concerns about the guidance***

#### *Service provider organisations for different groups (4.1.2)*

- 6.7 Comments on this aspect of the guidance requested for more detail on: (i) where the duty was expected to lie within local authorities and health boards; and (ii) arrangements for specific groups such as pregnant women and those who had left school.

#### *Named Person duties (4.1.3) and good practice (4.1.4)*

- 6.8 Different respondents requested clarity about the duties and good practice summarised in this section of the guidance. In general, these were wide ranging and detailed. However, most were addressed by subsequent sections of the guidance, and so they are not discussed here.
- 6.9 Respondents suggested that the service provider duties at 4.1.3 might include reference to: (i) providing training; (ii) ensuring other authority staff support the work of the Named Person; (iii) ensuring an adequate Named Person : children / young person ratio; and (iv) providing adequate administrative support for Named Persons.
- 6.10 Some respondents queried the distinction between the points listed as 'duties' and those listed as 'good practice'. Others wished to see greater emphasis given to specific points including child protection arrangements (there were calls for this to be covered as a 'duty' at 4.1.3), partnership working, the role of the third sector and the importance of culture change within services.

### ***Gaps in the guidance***

- 6.11 Respondents also identified a number of wider issues which they thought it would be useful to highlight in this section of the guidance:
- Service provider as opposed to individual Named Person responsibility and accountability
  - The contribution that Named Persons could make to service development at a strategic level
  - Monitoring arrangements and sanctions for failure to carry out the duties.

### ***Views of individual respondents***

- 6.12 Individual respondents mostly stated concerns about the principle of the Named Person or noted a general view that the guidance lacked clarity. More specific comments focused on concerns about, or the need for clarity on, the



following issues (most of which were covered in more depth elsewhere in the guidance):

- The role of the Named Person, generally and in relation to specific groups
- Knowledge, skills and training requirements for Named Persons
- Resourcing of the service and anticipated caseloads
- Information sharing
- Arrangements for dealing with potential conflicts of interest and disputes.

### Q7: Named Person: Qualifications, training, experience and position<sup>6</sup>

6.13 Question 7 in the consultation document stated ‘The Named Person Order and the draft guidance in support of this relate to training, qualifications, experience and position of those who can be a Named Person’, and asked, ‘Are they sufficient to promote reliability in the quality of the Named Person service while supporting the flexibility to ensure that organisations can provide the service universally and consistently? Do they provide clarity?’

6.14 Table 6.2 shows that 54% of organisations and 9% of individuals agreed that the Order and guidance were sufficient, while 46% of organisations and 91% of individuals disagreed. Table 6.3 relates to perceived clarity of the Order and guidance and shows very similar levels of agreement (58% and 6% for organisations and individuals respectively). Most respondents answered both parts of the question in the same way.

**Table 6.2: Question 7 (Sufficiency)**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	12	(75%)	4	(25%)	16	(100%)
Health organisations	8	(53%)	7	(47%)	15	(100%)
Partnership bodies and joint responses	8	(53%)	7	(47%)	15	(100%)
Other national public sector bodies	4	(80%)	1	(20%)	5	(100%)
Third sector organisations	11	(42%)	15	(58%)	26	(100%)
Professional groups	5	(45%)	6	(55%)	11	(100%)
Other organisational respondents	4	(50%)	4	(50%)	8	(100%)
<b>Total organisations</b>	<b>52</b>	<b>(54%)</b>	<b>44</b>	<b>(46%)</b>	<b>96</b>	<b>(100%)</b>
Individual respondents	3	(9%)	32	(91%)	35	(100%)

Percentages do not all total 100% due to rounding.

<sup>6</sup> This section also incorporates the analysis of responses to Question 24.

**Table 6.3: Question 7 (Clarity)**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	11	(69%)	5	(32%)	16	(100%)
Health organisations	8	(57%)	6	(43%)	14	(100%)
Partnership bodies and joint responses	7	(47%)	8	(53%)	15	(100%)
Other national public sector bodies	5	(100%)	0	(0%)	5	(100%)
Third sector organisations	13	(54%)	11	(46%)	24	(100%)
Professional groups	7	(64%)	4	(36%)	11	(100%)
Other organisational respondents	3	(38%)	5	(63%)	8	(100%)
<b>Total organisations</b>	<b>54</b>	<b>(58%)</b>	<b>39</b>	<b>(42%)</b>	<b>93</b>	<b>(100%)</b>
Individual respondents	2	(6%)	32	(94%)	34	(100%)

Percentages do not all total 100% due to rounding.

- 6.15 Local authorities and other national public sector bodies were most likely to regard the Order and guidance as sufficient and clear. Health organisations, partnership bodies and third sector organisations were more divided in their views.
- 6.16 Altogether 141 respondents (113 organisations and 28 individuals) made comments at Question 7.

### ***Aspects of the guidance which respondents found helpful***

- 6.17 Those commenting positively on the guidance particularly appreciated the clarity on legal responsibility (i.e. that it lay with the service provider rather than the individual Named Person); references to the 'Common Core' skills; the coverage of potential conflicts of interest; and the detail provided (at 4.1.16) on the matters of which the Named Person should have a clear understanding.

### ***Requirements for those acting as Named Persons***

- 6.18 Respondents offered a range of comments on the detailed requirements for those acting as Named Person as laid out in the Named Person Order and related guidance. These often related to perceived inconsistencies between the Order and guidance; between the requirements for health and teaching staff; and between the requirements relating to different groups of children and young people. Specific points included calls for:
- Further information on midwives acting as Named Persons (listed in the Order, but only covered in an annex to the guidance)
  - Clarification on whether a staff nurse with child development training at undergraduate level could be a Named Person.

- 6.19 It was also suggested that the speech and language and child development training requirements should apply to teaching staff as well as health staff, and that the guidance should be reviewed to enable greater input from specialist speech and language therapists.
- 6.20 Respondents also thought there was insufficient guidance on Named Persons for particular groups such as those who had left school, those disengaged from education, gypsies / travellers, home-schooled children and those with complex needs. A small number of respondents raised concerns about the arrangements for those in custody, querying the definition of 'senior custody officer' and the experience they would bring to the role.
- 6.21 Other specific issues on which respondents sought clarity included:
- The statutory functions referred to at 4.1.5
  - How the legal position regarding service provider accountability related to professional codes
  - The reference to 'outsourcing' at 4.1.6
  - Whether the Named Person criteria were 'requirements' (as described in the Order) or 'expectations' as suggested in the guidance
  - Whether a Named Person service provider / individual establishment could have multiple Named Persons
  - Whether those who leave school before 18 were included within the group of 'children not on the school roll' (4.1.9).
- 6.22 Respondents called for flexibility for staff who did not necessarily meet the stated criteria (e.g. social workers, youth workers) to be Named Persons for young people not in school. Respondents noted a range of other staff who may not meet the criteria including unpromoted pupil support staff; pupil support staff with a social work background; nurses (i.e. not health visitors) with relevant training and experience. Further, it was noted that some current promoted teachers / health visitors may not meet all the necessary criteria.
- 6.23 Respondents also highlighted a range of circumstances – e.g. relating to staff movement, rural areas, small schools and different models for senior management and pupil support – in which it would be difficult to meet the criteria, and thought the guidance needed to reflect this. They also queried whether staff needed to have met all the criteria prior to taking on Named Person duties, or when providing temporary cover.

### ***Skills, knowledge and understanding***

- 6.24 The guidance set out details of the skills, knowledge and understanding expected of the Named Person. The list of matters that Named Persons should have a clear understanding of (4.1.16) attracted a range of comments. While most respondents found it helpful, others thought it was unnecessary

and / or would be daunting for staff taking on the role. A further view was that the list was incomplete. Specific suggestions for additions included child protection policies and procedures, and children's rights.

6.25 Respondents also suggested the following:

- The list should take account of the role of the Lead Professional and make it clear that the Named Person could also be the Lead Professional.
- It should be clear that it was the responsibility of service providers to ensure the Named Persons had the required understanding.
- It should be made clear that the list was not exhaustive.

### ***Training***

6.26 The Named Person Order set out required academic and professional training and qualifications, while the guidance noted (4.1.17) that service providers are responsible for the provision of training in relation to the specified skills, knowledge and understanding. Respondents frequently expressed concern with this arrangement and called instead for a more prescriptive or standardised approach in order to achieve consistency.

6.27 Respondents wished to see national training – or, at least, nationally developed resources and materials – and cross-profession and cross-sector training, including training for Lead Professionals, and those in statutory and non-statutory organisations who would potentially interact with the Named Person service. They also wished to see: greater emphasis on the 'Common Core'; more emphasis on academic training; recognition of the Named Person role in undergraduate and professional training; requirements covering continuing professional development, self-evaluation and mentoring; and clarity on the level of training required.

6.28 Respondents also offered a wide range of comments on what should be covered in the training. Suggestions included training on the needs and rights of specific groups (e.g. those with disabilities, looked-after children, those who had experienced domestic abuse, etc.); skill-based training covering leadership, dealing with conflicts, etc., and knowledge-based training on issues such as the availability of local resources.

### ***Other workforce issues***

6.29 Respondents expressed a range of wider concerns about workforce issues. In particular, there were concerns about:

- The capacity of the current workforce to act as Named Persons, given health visitor vacancies, reductions in promoted posts, recruitment difficulties and existing demands on senior teachers

- The extent to which current staff would meet the criteria for acting as a Named Person and the need for flexibility while staff were trained up
- The implications for job evaluations, workloads and terms and conditions.

### ***Gaps in the guidance***

- 6.30 The guidance on conflicts of interest was welcomed by third sector respondents in particular. However, respondents called for inclusion of clear grounds and process for parents and children and young people to raise concerns, and queried whether alternative Named Persons would always be available, e.g. in rural areas.
- 6.31 The following were noted as other issues not covered in the guidance: the appropriate caseload for each Named Person; quality assurance and monitoring arrangements; and support and assistance that will be available to Named Persons.

### ***Views from individual respondents***

- 6.32 Most of the comments from individuals reflected wider concerns about the Named Person service. Specific points included that:
- Parents were best placed to look after the welfare of their children.
  - School nurses not teachers should be Named Persons.
  - There needed to be (stronger) procedures for addressing conflicts of interest and allowing parents a role in choosing a Named Person.
  - The list of things that Named Persons were expected to have ‘a clear understanding of’ was ‘a lot to add to the job description of professionals’.
  - Carrying out Named Person duties for all children would adversely affect the other duties of the staff involved and the level of service available for children with more significant needs.
  - Training and qualifications were not sufficient preparation for the Named Person role and the quality of service would vary depending on the experience and competence of individual staff.
  - The criteria in the Order did not take account of home-schooling.

### **Q8: Named Person service: Delivery of Named Person functions**

- 6.33 Question 8 focused on paragraphs 4.1.19 – 4.1.27 of the guidance and asked: ‘Is the level of detail provided on the delivery of the Named Person functions within the draft guidance appropriate to guide service providers in the provision of the service?’ Table 6.4 shows that 67% of organisations and 12% of individuals agreed, while 33% of organisations and 88% of individuals disagreed.

**Table 6.4: Question 8**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	13	(87%)	2	(13%)	15	(100%)
Health organisations	14	(93%)	1	(7%)	15	(100%)
Partnership bodies and joint responses	9	(60%)	6	(40%)	15	(100%)
Other national public sector bodies	3	(60%)	2	(40%)	5	(100%)
Third sector organisations	11	(50%)	11	(50%)	22	(100%)
Professional groups	5	(56%)	4	(44%)	9	(100%)
Other organisational respondents	4	(57%)	3	(43%)	7	(100%)
<b>Total organisations*</b>	<b>59</b>	<b>(67%)</b>	<b>29</b>	<b>(33%)</b>	<b>88</b>	<b>(100%)</b>
Individual respondents	4	(12%)	29	(88%)	33	(100%)

\* Two respondents ticked both 'yes' and 'no'. These responses are not included in the table. Percentages do not all total 100% due to rounding.

- 6.34 Local authorities and health organisations (who would be Named Person service providers) were most likely to agree. However, there were mixed views among third sector organisations.
- 6.35 Altogether, 110 respondents (87 organisations and 23 individuals) made comments at Question 8.

### ***Aspects of the guidance respondents found helpful***

- 6.36 Those commenting positively on this section of the guidance welcomed the level of detail and the examples included, and thought the guidance was helpful in clarifying the knowledge and skills needed by Named Persons. The references to taking account of the views of children, young people and parents also received positive comment.

### ***Clarifying the guidance***

- 6.37 Respondents offered a range of comments on how the guidance might be improved and clarified. At a general level, respondents were keen that the detailed functions were appropriately 'framed' with clarity provided on the role of the Named Person and the relationship with the Lead Professional and with other professionals. Respondents were concerned that the Named Person role did not negate the role of other professionals, and that Named Persons were not perceived as 'gatekeepers' to other services. Allied Health Profession and third sector respondents pointed out that many services were available through self-referral.
- 6.38 Respondents also thought the guidance could emphasise the importance of following the principles of GIRFEC (and prioritising early intervention and prevention) in carrying out Named Person duties.
- 6.39 Respondents sought clarity on specific aspects of the guidance as follows.

### *Seeking input from other services / professionals*

6.40 Respondents highlighted that Named Persons would need information and access to relevant local resources to be equipped for this role. They specifically sought clarity on:

- Involving professionals in other agencies in assessing wellbeing, and the implications for information sharing
- The obligation on other services to respond to Named Person referrals
- Arrangements for other services to make referrals to the Named Person
- The circumstances in which parents might be referred to services.

### *Using the GIRFEC Practice Model and practitioner questions*

6.41 Respondents felt that the reference to the GIRFEC Practice Model needed more detail.

6.42 Respondents sought clarity on when the practitioner questions should be used and whether they were meant to address wellbeing concerns or needs. Respondents also suggested a range of supplementary questions aimed at considering the views and needs of children, young people and parents, gathering full information, safeguarding the child and finalising a referral.

### *Responding to wellbeing concerns*

6.43 In relation to the response to a wellbeing concern, respondents focused on the creation of the Child's Plan and sought clarity about:

- The circumstances in which a Child's Plan was / was not required
- The respective roles and responsibilities of the Named Person and Lead Professional in initiating and ensuring adherence to the Child's Plan.

6.44 Respondents welcomed the reference to the use of a Child's Plan in 'at risk' situations; they also sought clarity on procedures in situations where compulsory care was required. It was suggested that this section should give greater prominence to high-risk situations, e.g. by reversing the order of the bullet points at 4.1.24 of the guidance.

### *Involving / seeking the view of children, young people and parents*

6.45 Respondents generally welcomed the guidance on this issue, but thought that the message and language could be clearer and more consistent, here and elsewhere in document. More particularly, they thought the guidance could:

- Provide more detail on exceptions to seeking views or sharing information
- Clarify the need to obtain child / young person consent prior to sharing information with parents

- Be strengthened regarding the need to support those with learning or communication difficulties. Respondents highlighted the need for reference to the Education (Scotland) Act; training and access to resources; and seeking input from specialist services.

### *General points*

6.46 Across this section respondents wished to see more guidance on recording and retaining information, and timescales for taking action.

### ***Gaps in the guidance***

6.47 Respondents identified the following as specific gaps in the current guidance:

- Working with specific groups such as looked-after children, those not in education, those with disabilities, and carers rather than parents
- Named Person functions in relation to transition points, particularly for children and young people with disabilities
- The interface with other systems and other agencies
- Dealing with disputes and breakdowns in relationships between Named Persons and parents / children
- Delivery of Named Person duties as part of a 'shared caseload' team.

### ***Views from individual respondents***

6.48 Comments from individuals focused on concerns about the 'power' of the Named Person and the need to balance that against the rights and responsibilities of parents. Respondents called for clarity on: the Named Person role in relation to families with no identified concerns; and the grounds for excluding parents from discussions. Respondents also commented on the relative weight given to the views of children: some thought that too much weight was given to the views of children, while a less common view that they should be given greater priority.

6.49 Respondents were also concerned that various aspects of the guidance were too subjective and drew attention to the threshold for intervention and the phrase 'proportionate' response (4.1.19).

6.50 Individuals wished to see adequate processes for dealing with disputes and complaints.

### **Q9: Named Person service: Continuity of the Named Person service**

6.51 Question 9 focused on paragraphs 4.1.30 – 4.1.32 of the guidance and asked: 'The draft guidance outlines how arrangements for making the Named Person service available during school holiday periods and other absences should be put in place. Do you agree that this provides sufficient clarity while allowing local flexibility?' Table 6.5 shows that 60% of organisations and 18% of



individuals agreed, while 40% of organisations and 82% of individuals disagreed.

**Table 6.5: Question 9**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	10	(67%)	5	(33%)	15	(100%)
Health organisations	14	(88%)	2	(13%)	16	(100%)
Partnership bodies and joint responses	9	(64%)	5	(36%)	14	(100%)
Other national public sector bodies	3	(60%)	2	(40%)	5	(100%)
Third sector organisations	9	(39%)	14	(61%)	23	(100%)
Professional groups	5	(45%)	6	(55%)	11	(100%)
Other organisational respondents	4	(67%)	2	(33%)	6	(100%)
<b>Total organisations*</b>	<b>54</b>	<b>(60%)</b>	<b>36</b>	<b>(40%)</b>	<b>90</b>	<b>(100%)</b>
Individual respondents	5	(18%)	23	(82%)	28	(100%)

\* One respondent ticked both 'yes' and 'no'. This response is not included in the table. Percentages do not all total 100% due to rounding.

- 6.52 Health organisations were most likely to agree that the guidance provided clarity on holiday cover arrangements while also allowing local flexibility. However, less than half of third sector organisations and professional groups agreed.
- 6.53 Altogether 101 respondents (91 organisations and 10 individuals) made comments. Most respondents focused on school holiday arrangements, and this is reflected in the analysis below.

### ***Aspects of the guidance respondents found helpful***

- 6.54 Respondents commenting positively on the guidance tended to do so at a general level. They noted, for example, that the need for planning and continuity was clear, or that flexibility was helpful in taking account of local service arrangements. Other respondents thought the guidance was helpful in clarifying how school holidays would impact on the handling of urgent and non-urgent matters. Most of those who offered positive comments also noted specific concerns or highlighted issues on which further clarity was sought.

### ***Concerns about the guidance***

#### ***National approach vs local flexibility***

- 6.55 Although some welcomed the flexibility that the guidance offered, respondents more commonly called for a national approach to holiday cover and absence cover more generally, and called for clearer more detailed guidance to ensure this. Respondents noted that the guidance needed to recognise arrangements for those who had left school, for those with ongoing needs (e.g. related to disabilities) and the different holiday schedules in independent schools.

### *The required level of service*

- 6.56 Respondents sought clarity about the level of service to be provided over holiday periods. Some accepted that a different level of service would operate at such times, but wanted clear parameters set. Others, however, noted the importance of providing a full service on a year-round basis, and expressed concerns about how this could be achieved in school holidays in particular, given that staff providing cover would, inevitably, not have the same level of knowledge of cases as the regular Named Person. Some noted that holiday and out-of-hours periods could be high-risk times for vulnerable children. Respondents wanted a clear definition of 'out of hours'. On-call arrangements and helplines were suggested for covering such periods.
- 6.57 Respondents also commented on the implications of distinguishing between 'urgent' and 'non-urgent' matters. Some called for the guidance to emphasise the need to deal with child protection concerns without delay. Others suggested that delays in dealing with non-urgent matters could lead to pressure points, backlogs of work and, potentially, leave children vulnerable given that non-urgent matters could nevertheless add to overall case information which could highlight a need to take action.

### *Access to information*

- 6.58 This was a key issue for respondents with some stressing the importance of those providing cover having full access to information, and others concerned about data protection implications and the practicalities of providing short-term access to information. The need for improved information recording and IT systems that are compatible between organisations were both noted.

### *Informing people of arrangements*

- 6.59 Respondents – particularly those from third sector and other (non-service provider) organisations – stressed the importance of communicating school holiday and other temporary arrangements to families and relevant agencies. Some queried the need for including a 'named' substitute.

### *Workforce arrangements and capacity*

- 6.60 Respondents sought clarity on who would provide cover during holidays or other periods of absence and whether those providing cover would need to meet the standard criteria for Named Persons as set out in the guidance and Order. Respondents queried whether this would be possible or practical.
- 6.61 Respondents highlighted a number of other issues including: the need to take account of part-time staff, term-time staff (in health as well as education) and the capacity of other staff to provide absence cover (holiday or sickness) for a Named Person. Respondents were concerned about the potential cost implications of providing holiday and absence cover, and the impact on

delivery of other work. They also pointed out that staff turnover would raise many of the same issues discussed above.

### *Business continuity planning*

6.62 Clarity was sought on the requirements for reviewing and testing business continuity arrangements.

### **Views of individual respondents**

6.63 Comments from individuals focused on practicalities and the impact on service continuity. Those concerned about practicalities thought that teachers' holidays meant that providing a year-round Named Person service was not feasible, or could only be done at significant cost. Respondents further suggested that not providing a year-round service, in effect, defeated the objectives of the scheme. Those concerned about continuity thought that cases would be 'shunted around' and that individual staff would interpret wellbeing concerns differently; they were also concerned about ensuring clarity as to who was acting as a Named Person at any given time.

## 7 THE NAMED PERSON SERVICE: CONSIDERATIONS RELATING TO DIFFERENT GROUPS

- 7.1 Sections 5 and 6 of the statutory guidance covered the Named Person service in relation to different groups of children (pre-school children, not pre-school children, children who leave school before their 18<sup>th</sup> birthday, children of gypsies / travellers, children who are home educated, and children where there is more than one Named Person involved with a family). This guidance relates to Part 4 (Sections 20 and 21) of the Act.
- 7.2 The consultation asked six questions (Questions 10–15) about Sections 20 and 21. The views of respondents in relation to each of these questions are discussed below.

### Q10: Named Person service for pre-school children

- 7.3 Question 10 asked: ‘Section 20 of the draft guidance outlines arrangements for making the Named Person service available for pre-school children. Do you think it provides clarity?’ Table 7.1 shows that 84% of organisations and 21% of individuals agreed, while 16% of organisations and 79% of individuals disagreed.

**Table 7.1: Question 10**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	15	(94%)	1	(6%)	16	(100%)
Health organisations	15	(100%)	0	(0%)	15	(100%)
Partnership bodies and joint responses	11	(92%)	1	(8%)	12	(100%)
Other national public sector bodies	3	(100%)	0	(0%)	3	(100%)
Third sector organisations	12	(63%)	7	(37%)	19	(100%)
Professional groups	7	(88%)	1	(13%)	8	(100%)
Other organisational respondents	4	(57%)	3	(43%)	7	(100%)
<b>Total organisations*</b>	<b>67</b>	<b>(84%)</b>	<b>13</b>	<b>(16%)</b>	<b>80</b>	<b>(100%)</b>
Individual respondents	6	(21%)	22	(79%)	28	(100%)

\* One respondent ticked both ‘yes’ and ‘no’. This response is not included in the table. Percentages do not all total 100% due to rounding.

- 7.4 In general, organisational groups said the guidance was clear in relation to pre-school children. However, third sector organisations and those from ‘other organisations’ were least likely to say that the guidance was clear.
- 7.5 Altogether, 77 respondents (67 organisations and 10 individuals) made comments at Question 10.

### ***Aspects of guidance respondents found helpful***

- 7.6 Respondents from all organisational subgroups, but particularly those from the partnership and third sectors, commented that the guidance was clear. In particular, respondents thought the arrangements to identify a Named Person pre-birth had been well addressed and provided clarity.
- 7.7 However, respondents also often went on to highlight issues which they thought needed clarification or additional guidance.

### ***Issues requiring clarification or additional guidance***

- 7.8 There was a wide range of specific requests for further clarification of the guidance; these were often raised by a single respondent. Some of these requests related to the use of terms which it was thought were too vague (e.g. 'reasonably practicable', 'exceptional circumstances'). Other requests for clarification related to the provision of timescales for some of the processes identified (e.g. notification of a newborn outwith normal residence, the timeframe for storage of information about decisions).
- 7.9 There were requests for clarification as to who the Named Person would be in specific circumstances and how the Named Person would relate to other professionals. In particular:
- It should be made clearer that the health visitor is (usually) the Named Person for this group; it was said that currently some people believe midwives are the first Named Person. What is the role of the midwife and what is the relationship with the Named Person (especially pre-birth)?
  - Who is the Named Person if a child does not register for school, or if the family drops out of the Family Nurse Partnership, or if the health visitor is not the Named Person?
  - How can the Family Nurse Partnership provide the Named Person when this contradicts the requirement of universalism?
  - Why is the health visitor the Named Person when the child has more contact with early learning and childcare providers?
  - How will the liaison between the Named Person and nurseries work?
- 7.10 Other requests for clarification related to information sharing, in the context of geographic transitions (e.g. children moving between Health Board areas) and life-course transitions (e.g. children moving from pre-school to education).
- 7.11 There were also requests for clarification in respect of children seeking asylum in Scotland, and children whose parents also have a Named Person.

### ***Duties / training / skills of the Named Person***

- 7.12 Points were often made about the duties, training and skills of the Named Person. It was thought that the Named Person must be able to: communicate effectively with this group of children; discuss screening with pregnant mothers; and be trained to ensure fathers are not excluded. It was also thought their duties should include managing the transition to school.

### ***Other issues / suggestions / more general comments***

- 7.13 Issues were raised in relation to Question 10 which are reported in detail elsewhere. In particular respondents commented on the importance of continuity in relation to the Named Person role, and that the distinction between the Named Person and the Lead Professional roles does not reflect accepted practice. Points were also made about linkage with existing child protection procedures.
- 7.14 Respondents asked about the legal position regarding non-engagement. In particular, when can parents legitimately be excluded from discussions about a child's wellbeing? There were also questions about what should happen if the relationship between a Named Person and a child / parent broke down.

### ***Views from individual respondents***

- 7.15 Some individual respondents made comments in relation to the topics already discussed above (about the need for greater clarity, issues relating to the training and skills of the Named Person, etc.). In addition, some individuals commented that they were opposed to the Act as a whole.

### **Q11: Named Person service for children who are not pre-school children**

- 7.16 Question 11 focused on paragraphs 6.1.1 – 6.1.8 of the guidance and asked: 'Section 21 of the draft guidance outlines arrangements for making the Named Person service available for children who are not pre-school children. Do you think it provides clarity?' Table 7.2 shows that 71% of organisations and 18% of individuals agreed, while 29% of organisations and 82% of individuals disagreed.

**Table 7.2: Question 11**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	15	(94%)	1	(6%)	16	(100%)
Health organisations	10	(67%)	5	(33%)	15	(100%)
Partnership bodies and joint responses	11	(79%)	3	(21%)	14	(100%)
Other national public sector bodies	2	(67%)	1	(33%)	3	(100%)
Third sector organisations	12	(71%)	5	(29%)	17	(100%)
Professional groups	3	(38%)	5	(63%)	8	(100%)
Other organisational respondents	4	(57%)	3	(43%)	7	(100%)
<b>Total organisations</b>	<b>57</b>	<b>(71%)</b>	<b>23</b>	<b>(29%)</b>	<b>80</b>	<b>(100%)</b>
Individual respondents	5	(18%)	23	(82%)	28	(100%)

Percentages do not all total 100% due to rounding.

- 7.17 A substantial majority of respondents from almost all organisational subgroups (and 94% of local authority respondents) said they thought the guidance was clear. The only exception to this pattern was professional groups, where only 38% thought the guidance was clear.
- 7.18 Altogether, 73 respondents (63 organisations and 10 individuals) made comments in relation to Question 11.

### ***Aspects of the guidance respondents found helpful***

- 7.19 In general, respondents thought the guidance provided a clear and comprehensive description of the Named Person service for this group, with appropriate flexibility. The inclusion of guidance relating to children excluded from school was particularly welcomed.
- 7.20 Nevertheless, respondents often went on to highlight issues which they thought needed clarification or additional guidance.

### ***Issues requiring clarification or additional guidance***

- 7.21 Respondents requested further clarification of some of the terms used in the guidance (e.g. 'readily identifiable', 'easily accessible', 'clear and easy access to the Named Person'). It was also thought that the title of this section in the guidance should be reworded to make clear it applies to all children and young people beyond pre-school up to age 18.

### ***Who should be the Named Person?***

- 7.22 There was uncertainty about who the Named Person should be, especially for children not in a state school, children who leave school before they are 18, and children who are in residential / foster care outwith their home authority. It was also not clear when 'joint contact' should be offered.

- 7.23 Respondents suggested that where an individual was not in education, employment or training, the Named Person should not come from the education sector.

#### *Children excluded from school (6.1.8)*

- 7.24 There were widespread requests for more guidance in relation to exclusion (6.1.8). More guidance was required about how access to the Named Person would be arranged and managed, and what the role of the Named Person would be during this time. These requests were often mentioned in the context of children with disabilities, who were more likely to be excluded.
- 7.25 It was noted that exclusion from school should only be used in extreme circumstances. It was also suggested that the school may not be the best point of contact at a time of exclusion, and (the appointment of) a 'new' Named Person may be appropriate.

#### ***Other issues / suggestions / more general comments***

- 7.26 It was suggested that guidance needed to be developed for groups of children not currently explicitly identified; specifically those at risk of poverty, those who are homeless, those in the criminal justice system, those never enrolled in educational provision, looked-after and accommodated children, those who have complex needs, and other vulnerable groups.
- 7.27 Respondents also requested guidance about where the working relationship between the Named Person and the parent / child is difficult or has broken down. It was suggested that a dispute resolution process was required.
- 7.28 Continuity of the Named Person, a single point of contact, and efficient transfer of information about who the Named Person was, were all thought to be important. Respondents also wanted to know what the relationship was between this guidance and local guidance and processes.
- 7.29 Some respondents asked for examples of good practice to be included in relation to how the Named Person communicated with parents and children. Others focused on the importance of consistency of practice across different areas, and ensuring that Named Persons had appropriate training to be able to communicate with children and young people.

#### ***Views from individual respondents***

- 7.30 All the individuals who commented at Question 11 ticked 'no' in the closed part of the question. Many of these were opposed to the Act in principle.
- 7.31 Those who offered comments in relation to the specific proposals thought that: it was unclear how access to the Named Person by parents would be achieved; it was unclear who the Named Person was for children not in state



school; a clear explanation of the circumstances in which parents could be legitimately excluded from discussions about a child’s wellbeing was required; and the Named Person in a secondary school should be a member of the Senior Management Team.

**Q12: Named Person service for children who leave school before their 18<sup>th</sup> birthday**

7.32 Question 12 related to paragraphs 6.1.9 – 6.1.25 of the guidance. It asked, ‘Does the draft guidance make clear arrangements for providing the Named Person service for children who leave school before their 18th birthday?’ Table 7.3 shows that 48% of organisations and 15% of individuals agreed, while 52% of organisations and 85% of individuals disagreed.

**Table 7.3: Question 12**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	8	(53%)	7	(47%)	15	(100%)
Health organisations	9	(64%)	5	(36%)	14	(100%)
Partnership bodies and joint responses	5	(33%)	10	(67%)	15	(100%)
Other national public sector bodies	2	(50%)	2	(50%)	4	(100%)
Third sector organisations	11	(56%)	13	(54%)	24	(100%)
Professional groups	4	(44%)	5	(56%)	9	(100%)
Other organisational respondents	3	(50%)	3	(50%)	6	(100%)
<b>Total organisations*</b>	<b>42</b>	<b>(48%)</b>	<b>45</b>	<b>(52%)</b>	<b>87</b>	<b>(100%)</b>
Individual respondents	4	(15%)	23	(85%)	27	(100%)

\* Two respondents ticked both ‘yes’ and ‘no’. These responses are not included in the table. Percentages do not all total 100% due to rounding.

7.33 As the table shows, organisational respondents were generally divided in their views on this question. Health organisations were more likely than other organisational respondents to say the guidance was clear. However, partnership bodies were more likely to say that it was not.

7.34 Altogether, 95 respondents (82 organisations and 13 individuals) made comments at Question 12.

***Aspects of the guidance that respondents found helpful***

7.35 Respondents from each organisational sector commented that the guidance was clear. Some of these provided a general comment that the guidance was clear overall and did not elaborate further. Others focused on specific aspects including: a) welcoming the focus on children with communication difficulties; b) confirming that the local authority’s responsibility for those leaving school at 16 or 17 had been clearly set out; and c) affirming the levels of flexibility and local variation allowed within the guidance.

- 7.36 Respondents often highlighted issues which they thought needed clarification or additional guidance. In addition, some respondents raised wider points which they wished to be considered.

### ***Issues requiring clarification or additional guidance***

- 7.37 There was widespread comment that the issues in relation to this group were complex and challenging. Respondents repeatedly made the point that keeping track of those who leave school was not straightforward, and it was not clear how contact could be maintained with those who were no longer registered on a school roll. In particular it was not clear 'where and to whom' a concern would be raised for children not moving on to higher education.
- 7.38 Overall, the guidance for this group (out of the six groups discussed in this chapter) attracted the most concern. Respondents often made comments to the effect that this part of the guidance was 'generally unclear', 'not as clear as the guidance for other groups' or 'in need of greater clarity and specification'. It was felt that the guidance spelled out what was required, but not how it could be achieved. Implementing this requirement was thought to represent a major challenge for local authorities.
- 7.39 It was also felt that leaving the responsibility for identifying the Named Person for this group to local authorities was likely to lead to a high degree of inconsistency. More specific guidance, and a minimum defined national standard was requested. Respondents thought that examples to illustrate the range of circumstances and possible responses might help. This should also cover the responsibility for awareness raising (6.1.22) and a statement of how proactive local authorities are expected to be.

### *Who should be the Named Person for this group?*

- 7.40 A range of respondents questioned the merit of allocating school leavers a Named Person who held a promoted post in the field of education. It was suggested that a wider range of professionals might be more appropriate, especially for those who were not in education (e.g. a youth or community worker, a careers guidance professional, or a voluntary sector worker).

### *Transition to adult services / Interface with adult services*

- 7.41 Respondents often asked for more clarity in relation to the transition to adult services for this group. It was noted that there were specific requirements for young people making this transition, and the Named Person service would be critical to support this. There was a concern that adult services would not be aware of the Act and the accompanying guidance.
- 7.42 The comments about improving transitions to adult services were often made in the context of children with learning difficulties or disabilities, and children with complex needs. It was emphasised that it would be important for the

arrangements to dovetail with other legislation (e.g. Additional Support for Learning Act, Self-directed Support Act). There was also comment that there needed to be clear guidance around the links to adult support and adult protection services.

#### *Linkages to further and higher education establishments*

- 7.43 Respondents asked for clarification of the links with further and higher education establishments, including how these organisations will communicate with Named Persons.

#### *Specific subgroups where more clarity is required*

- 7.44 More clarity about the arrangements was required for a range of groups including: those not moving on to higher education; those who were young parents; those moving from one area to another; those returning from the armed forces; those with communication problems; the chronically ill and homeless; those excluded from school; looked-after children placed out of the local authority area. In this last case it was thought confusing that the placing authority would be responsible for aftercare, and the social worker would be elsewhere, but the home authority would have to provide the Named Person.

#### *Other issues where more clarity is required*

- 7.45 Other issues which required more clarity were: the arrangements for continuity, cover at holiday times, and the training of the Named Person.

#### ***Other issues / suggestions / more general comments***

- 7.46 Respondents raised the issue of the importance of balancing the rights and wishes of this age group. This covered: a) the right of a young person over the age of 16 to choose not to engage or to refuse consent for the Named Person to hold or share information; and b) the role of the young person in preparing, and in any decision to prepare, a Child's Plan.
- 7.47 Respondents thought there were potentially large logistical difficulties in ensuring that these young people – who might be in apprenticeships, or in a workplace or educational establishment – knew who their Named Person was. To work successfully, the systems would require young people and families themselves to navigate them; the realism of this was questioned.
- 7.48 Finally, the arrangements for information sharing were questioned. More well-defined protocols for information sharing were thought to be required.

#### ***Views from individual respondents***

- 7.49 Most of the individuals who made comments at Question 12, were against the Act as a whole. Of those who engaged with the question, there was a view that the guidance in relation to this age group was not practical.

### Q13: Named Person service for gypsies / travellers

7.50 Question 13 focused on paragraphs 6.1.25 – 6.1.31 of the guidance and asked, ‘Does the draft guidance make clear arrangements for providing the Named Person service for children of Gypsy / travellers?’ Table 7.4 shows that 70% of organisations and 24% of individuals agreed, while 30% of organisations and 76% of individuals disagreed.

**Table 7.4: Question 13**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	12	(80%)	3	(20%)	15	(100%)
Health organisations	10	(83%)	2	(17%)	12	(100%)
Partnership bodies and joint responses	7	(54%)	6	(46%)	13	(100%)
Other national public sector bodies	2	(50%)	2	(50%)	4	(100%)
Third sector organisations	11	(79%)	3	(21%)	14	(100%)
Professional groups	5	(56%)	4	(44%)	9	(100%)
Other organisational respondents	3	(75%)	1	(25%)	4	(100%)
<b>Total organisations*</b>	<b>50</b>	<b>(70%)</b>	<b>21</b>	<b>(30%)</b>	<b>71</b>	<b>(100%)</b>
Individual respondents	6	(24%)	19	(76%)	25	(100%)

\* One respondent ticked both ‘yes’ and ‘no’. This response is not included in the table. Percentages do not all total 100% due to rounding.

7.51 Partnership bodies, other national public sector bodies, and professional groups were less likely than other organisational respondents to say the guidance was clear.

7.52 Altogether, 72 respondents (63 organisations and 9 individuals) made comments at Question 13.

#### ***Aspects of the guidance respondents found helpful***

7.53 Those offering positive comments included respondents from professional, local authority, health and third sector subgroups. Specific aspects which were welcomed or thought to be clear included: a) the recognition that there are different types of gypsies / travellers, who have different needs; b) that the guidance was realistic, flexible, and not unduly intrusive; and c) that there was a commitment to overcoming any cultural, language, literacy or other barriers.

7.54 Nevertheless, respondents often highlighted issues which they thought needed clarification or additional guidance. In addition, some respondents raised wider points which they wished to be considered.

#### ***Issues requiring clarification or additional guidance***

7.55 It was recognised that the provision of a Named Person service to gypsies / travellers was complex and challenging. This was especially the case for

those with less predictable patterns of residence, or those who were frequently on the move. Respondents wanted to know how proactive the Named Person service should be in seeking out these children.

- 7.56 There were requests for more clarity in relation to the Named Person's role with gypsies / travellers, especially for those children not attending school. Respondents asked how, without regular contact, the Named Person could identify any wellbeing needs.

#### *Sharing of information*

- 7.57 The sharing and / or transfer of information was highlighted as requiring clear guidance when a traveller moves between a Scottish school and an English one, and during a period of temporary residency when no registration with a GP occurs.

#### *Wellbeing concerns*

- 7.58 There was a range of comments about how the Named Person service could or should operate if there was a wellbeing concern. It should be made clearer that the decision about who the relevant agency was, depended on the age of the child. Respondents queried what should happen if:
- A family had only recently arrived and it is unclear if they had sought the support of the Named Person service. Will any wellbeing concerns be shared with the Named Person in the current residence area?
  - There are wellbeing concerns but not child protection issues for children with less predictable travelling patterns.

#### *Other issues*

- 7.59 Respondents raised a range of other specific issues / queries in relation to this part of the guidance including:
- Which organisation should lead when a family arrives in a new area with a range of children of varying needs / ages?
  - Would a promoted staff member within a school be the Named Person if a family was resident in an area for a significant part of the year?
  - It would be unwise not to transfer the Named Person role to the child / family's new area, no matter how temporary.
  - It is unclear how schools would manage any transfers, given the nature of this group and their relationship with the local authority in some cases.

#### ***Other issues / suggestions / more general comments***

- 7.60 There were broader comments made in relation to the cultural aspects in relation to this group. Some respondents highlighted that it was unlikely that

gypsies / travellers would wish to engage with the Named Person service, and they questioned the assumptions underpinning the guidance that this group would wish to engage. A range of respondents thought that seeking to know the family's whereabouts could be viewed as an infringement of cultural rights.

7.61 The issues of coordination and tracking meant some respondents called for 'a national approach' or 'a separate national service' with 'a single point of contact' or 'designated person' in relation to this group. Otherwise it was thought that there were risks of confusion, inequality of service provision from one area to another, and overall a lower level of support as compared with that available to non-travelling families.

7.62 It was thought that some examples would help to make the guidance clearer.

### **Views from individual respondents**

7.63 One respondent made strongly positive comments about this guidance, whilst others pointed out the challenging nature of providing the Named Person service to this group. Other individuals made comments which focused on their lack of support for the Act as a whole.

### **Q14: Named Person service for those who are home educated**

7.64 Question 14 focused on paragraphs 6.1.32 – 6.1.39 of the guidance and asked: 'Does the draft guidance make clear arrangements for providing the Named Person service for children who are home educated?' Table 7.5 shows that 77% of organisations and 8% of individuals agreed, while 23% of organisations and 92% of individuals disagreed.

**Table 7.5: Question 14**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	11	(69%)	5	(31%)	16	(100%)
Health organisations	14	(93%)	1	(7%)	15	(100%)
Partnership bodies and joint responses	8	(57%)	6	(43%)	14	(100%)
Other national public sector bodies	4	(100%)	0	(0%)	4	(100%)
Third sector organisations	10	(77%)	3	(23%)	13	(100%)
Professional groups	7	(88%)	1	(13%)	8	(100%)
Other organisational respondents	4	(80%)	1	(20%)	5	(100%)
<b>Total organisations</b>	<b>58</b>	<b>(77%)</b>	<b>17</b>	<b>(23%)</b>	<b>75</b>	<b>(100%)</b>
Individual respondents	2	(8%)	23	(92%)	25	(100%)

Percentages do not all total 100% due to rounding.

7.65 Partnership bodies were less likely than other organisational respondents to say this section of the guidance was clear.

7.66 Altogether, 65 respondents (55 organisations and 10 individuals) made comments at Question 14.

### ***Aspects of the guidance that respondents found helpful***

7.67 Positive comments on the clarity of the guidance were made by respondents from across all organisational subgroups. Specific aspects which were welcomed or thought to be clear included: a) the role of the local authority in providing the Named Person service; b) the liaison arrangements between health and education and particularly the role of the health visitor in informing the local authority of all school age children; and c) the arrangements for sharing / transferring information.

7.68 Despite these positive comments respondents often went on to highlight issues which they thought needed clarification or additional guidance. In addition, some respondents raised wider points for consideration.

### ***Issues requiring clarification or additional guidance***

7.69 There was a widespread view that this was a challenging group in relation to the establishment of a Named Person service. Respondents repeatedly raised questions which indicated there was a concern that local authorities would not necessarily be aware of home educated children in all cases; those who had never registered with a GP and those who were 'missing in education' were specifically mentioned. As with gypsies / travellers, a 'national approach' was advocated for this group.

### ***Communication – responsibilities and timescales***

7.70 Respondents had a range of queries in relation to communication:

- Whose responsibility is it to inform the local authority about a child who is transitioning from the Named Person in the Health Board (often the health visitor)? The health visitor? Or the parent?
- What is the timescale for the notification?
- Do home educators have a legal responsibility to make contact with the Named Person?
- How proactive should the local authority be in contacting / meeting parents and offering support?
- If a child is withdrawn from a local authority school it needs to be made clearer that the Named Person who previously had responsibility, no longer has responsibility.
- Is it to be left to the parents' discretion whether to contact the service?

### *Wellbeing concerns*

7.71 Respondents commented that it was not clear how the Named Person would become aware of wellbeing concerns in this group of children. Moreover, more guidance was required on how the Named Person will assess information on wellbeing and under what conditions / circumstances this will be explored with the child and their parents.

### *Other issues*

7.72 Respondents requested more clarity in relation to:

- The participation of the child / parent in the selection of a Named Person
- How a dispute resolution process would be developed / implemented
- How the Named Person will be identified and how variations in the choice of the Named Person will be minimised
- Whether the Named Person can / will help with the transition to post-school life
- Whether parents may choose to opt out.

### ***Other issues / suggestions / more general comments***

7.73 A range of broader issues was raised by respondents. It was suggested that the draft guidance misrepresents the current situation on home education, as parents (and others with parental rights and responsibilities) do not require 'permission' to home educate.

7.74 The reliance on the health sector to provide full information was highlighted; local authorities / partnership bodies were not always confident that this would be forthcoming, and asked that a process for this was developed.

### ***Views from individual respondents***

7.75 Individuals often made comments which indicated that they did not think the Act could or should be implemented amongst this group of children. These individuals saw the Named Person service as an unwelcome and unnecessary imposition. A smaller group of individuals made more detailed points concerning who could act as Named Person for a home-schooled child, and the responsibility of the parent to make contact with the Named Person.

### **Q15: Named Person service for families with more than one Named Person**

7.76 Question 15 concerned paragraphs 6.1.41 – 6.1.43 of the guidance and asked: 'Does the draft guidance make clear arrangements for providing the Named Person service for those families with more than one Named Person?' Table 7.6 shows that 81% of organisations and 16% of individuals agreed, while 19% of organisations and 84% of individuals disagreed.



**Table 7.6: Question 15**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	13	(87%)	2	(13%)	15	(100%)
Health organisations	12	(86%)	2	(14%)	14	(100%)
Partnership bodies and joint responses	12	(80%)	3	(20%)	15	(100%)
Other national public sector bodies	4	(80%)	1	(20%)	5	(100%)
Third sector organisations	9	(64%)	5	(36%)	14	(100%)
Professional groups	10	(91%)	1	(9%)	11	(100%)
Other organisational respondents	4	(80%)	1	(20%)	5	(100%)
<b>Total organisations*</b>	<b>64</b>	<b>(81%)</b>	<b>15</b>	<b>(19%)</b>	<b>79</b>	<b>(100%)</b>
Individual respondents	4	(16%)	21	(84%)	25	(100%)

\* One respondent ticked both 'yes' and 'no'. This response is not included in the table.  
Percentages do not all total 100% due to rounding.

- 7.77 In general, organisational respondents thought this part of the guidance was clear. However, third sector organisations were least likely to say this.
- 7.78 Altogether, 69 respondents (61 organisations and 8 individuals) made comments in relation to Question 15.

### ***Aspects of the guidance that respondents found helpful***

- 7.79 A few respondents specifically commented that they thought the guidance was clear. Specific aspects which were welcomed or thought to be clear were the need for dialogue and communication, and the requirement to share relevant information between different Named Persons.
- 7.80 Respondents nevertheless often highlighted issues which they thought needed clarification or additional guidance. In addition, some respondents raised wider points for consideration.

### ***Issues requiring clarification or additional guidance***

- 7.81 Respondents often referred in their comments to the complexity of the situations where more than one Named Person was involved. These were thought to be some of the most vulnerable families, and the guidance was not thought to be sufficiently clear to handle complex arrangements. There were many requests for detailed practice guidance which would complement and elaborate the current guidance, as well as a request for a firmer statement of what is required to meet the statutory duties.

### ***Communication and dialogue***

- 7.82 Respondents emphasised the importance of good communication and dialogue. They thought that this was a necessity, and the guidance should be amended to reflect this.

### *Accountability arrangements*

7.83 The difficulties of ensuring clear accountability arrangements where multiple Named Persons were involved was mentioned repeatedly. Respondents wished to know who had responsibility for co-ordinating the arrangements between the Named Persons, who would take overall / lead responsibility, and whether (and how) an overarching plan would be developed. The point was made that families want one point of contact. Moreover, part of the rationale behind GIRFEC was to ensure families did not have to deal with a wide range of professionals with potentially conflicting points of view.

### *Information sharing*

7.84 Points were often made about the complexities and the importance of developing clear information-sharing protocols to cover the situation where more than one Named Person was involved. Respondents made specific requests for more clarity in relation to:

- Situations where there are children within one family who do not all reside in Scotland
- Whether one Named Person could share information with another Named Person of a child in the same family
- How one Named Person will know that another Named Person is involved with the family
- How receptive parents would be to information being shared regarding other children's school attendance or professional contact
- Ensuring that if information is shared it is given to the correct individual.

7.85 Finally, more detail was requested about what was meant by 'all information which the outgoing service provider holds which is likely to be relevant to the Named Person function'. It was suggested that core data should be defined and listed (e.g. numbers and names of siblings).

### ***Other issues / suggestions / more general comments***

7.86 Some respondents asked for 'a national approach' to be adopted with this group. It was also suggested that there was the potential to learn from the progress made nationally in the field of child protection.

7.87 As mentioned earlier, respondents thought that the current guidance runs contrary to the GIRFEC Practice Model whereby service providers should be limiting (not increasing) the number of people involved with the family.

### ***Views from individual respondents***

7.88 Some individuals who made comments at Question 15 felt the guidance lacked clarity, or was too general. More often, respondents were not in favour of the Act.

## 8 Q16: COMMUNICATING INFORMATION ABOUT THE SERVICE

- 8.1 Section 8 of the draft guidance concerned the duty to provide information about the Named Person service, and covered the provision of: (i) information about the functions and operation of the service aimed at other organisations; and (ii) person-specific information about the service for children and young people and parents. The guidance relates to Part 4 (Section 24) of the Act.
- 8.2 Question 16 referred to Section 8 of the guidance and asked: ‘Does the draft guidance make clear the requirements and expectations in relation to communicating information about the Named Person service and the Named Person?’ Table 8.1 shows that 80% of organisations and 11% of individuals said ‘yes’, while 20% of organisations and 89% of individuals said ‘no’.

**Table 8.1: Question 16**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	14	(88%)	2	(13%)	16	(100%)
Health organisations	13	(87%)	2	(13%)	15	(100%)
Partnership bodies and joint responses	13	(93%)	1	(7%)	14	(100%)
Other national public sector bodies	5	(100%)	0	(0%)	5	(100%)
Third sector organisations	11	(55%)	9	(45%)	20	(100%)
Professional groups	10	(100%)	0	(0%)	10	(100%)
Other organisational respondents	4	(57%)	3	(43%)	7	(100%)
<b>Total organisations*</b>	<b>70</b>	<b>(80%)</b>	<b>17</b>	<b>(20%)</b>	<b>87</b>	<b>(100%)</b>
Individual respondents	3	(11%)	24	(89%)	27	(100%)

\* One respondent ticked both ‘yes’ and ‘no’. This response is not included in the table. Percentages do not all total 100% due to rounding.

- 8.3 Most organisations thought the expectations and requirements related to the communication of information were clear. However, views were more mixed among third sector and ‘other’ organisations.
- 8.4 Altogether, 81 respondents (66 organisations and 15 individuals) made comments. A number of respondents provided comments related to the communication of case-specific information. Such points are covered later in relation to Questions 18–22.

### Aspects of the guidance respondents found helpful

- 8.5 Respondents sometimes made general positive comments about the guidance, stating that they found it clear or straightforward. The emphasis on providing information for different groups (e.g. children and young people and those with communication needs) was particularly welcomed. However, respondents also often went on to note specific concerns and offer suggestions as to how the guidance might be improved.

## **Aspects requiring additional guidance or clarification**

- 8.6 Respondents generally welcomed references in the guidance to ensuring that communication was provided in different formats, but wished to see more detail on meeting the needs of different groups including: children of different ages, those with different literacy levels, those who did not have English as a first language, and those with communication difficulties.
- 8.7 Respondents called for additional guidance or clarification in relation to a number of more specific issues:
- Timescales for providing information during the ante-natal period (apparent anomalies in the main guidance and Appendix A were noted)
  - Requirements for providing information on temporary cover arrangements
  - The requirement to provide the name of the Named Person, particularly in relation to temporary cover arrangements
  - Communication requirements relating to those no longer at school
  - Requirements relating to communication at transition points.
- 8.8 In addition, respondents highlighted aspects of the guidance which they wished to see strengthened, e.g. at 8.1.9 and 8.1.10, regarding the meeting of timescales and the provision of written information, and information in different formats. Those representing speech and language therapists in particular were keen for strengthening of the guidance in this area.

## **Concerns with aspects of the guidance**

- 8.9 Different respondents expressed concern with aspects of the guidance, including the following:
- Timescale: Some saw 10 days as being unnecessarily restrictive or as challenging to adhere to. Others thought that speedier provision of information was needed if the service was to be effective.
  - The use of written information: Some respondents disagreed with the provision of written information as representing best practice, and wished to see more personal communication. Others argued that standard written information should be provided to all, including to those also requiring information in alternative formats.

## **Format and content of information**

- 8.10 There were calls for clear descriptions of the content and format of communication aimed at different groups or for national formats or templates to be provided. Some respondents noted that they had already produced relevant materials, or were keen to advise on the production of materials. Other noted a range of issues which they felt should be covered in routine

information for other services and professionals as well as children, young people and parents.

### **Wider concerns about the guidance**

8.11 Some respondents raised more general issues and concerns related to service-level communication, as follows:

- The requirements were potentially burdensome, particularly given that most families would never need to contact the Named Person service.
- The introduction of the Named Person service should be accompanied by a national publicity campaign to help ensure engagement with the service.
- Further guidance was required to support effective communication and liaison with local third sector organisations.

### **Views of individual respondents**

8.12 Comments from individual respondents tended to reinforce their more general concerns about the Act. Those offering more specific comments on service-level communication noted that:

- There needed to be a complaints / appeal process and information should be provided on this.
- It was incumbent on the government and other relevant agencies to fully inform families about the new service and to justify its introduction.

## 9 Q17: DUTY TO HELP THE NAMED PERSON

- 9.1 Section 9 of the draft guidance concerned the duty on service providers and relevant authorities to comply with a request from a Named Person for help or support to assist a Named Person in carrying out their functions. The guidance relates to Part 4 (Section 25) of the Act.
- 9.2 Question 17 focused on paragraphs 9.1.1 – 9.1.8 of the guidance and asked: ‘Does the draft guidance make clear the arrangements which should be in place for service providers or relevant authorities to help a Named Person?’ Table 9.1 shows that 64% of organisations and 11% of individuals agreed, while 36% of organisations and 89% of individuals disagreed.

**Table 9.1: Question 17**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	11	(73%)	4	(27%)	15	(100%)
Health organisations	10	(63%)	6	(38%)	16	(100%)
Partnership bodies and joint responses	11	(79%)	3	(21%)	14	(100%)
Other national public sector bodies	4	(80%)	1	(20%)	5	(100%)
Third sector organisations	10	(50%)	10	(50%)	20	(100%)
Professional groups	8	(67%)	4	(33%)	12	(100%)
Other organisational respondents	2	(33%)	4	(67%)	6	(100%)
<b>Total organisations</b>	<b>56</b>	<b>(64%)</b>	<b>32</b>	<b>(36%)</b>	<b>88</b>	<b>(100%)</b>
Individual respondents	3	(11%)	24	(89%)	27	(100%)

Percentages do not all total 100% due to rounding.

- 9.3 Most organisational respondents thought the arrangements which should be in place were clear. However, third sector organisations were more divided in their views and a majority of ‘other’ organisational respondents did not think the guidance was clear on this point.
- 9.4 Altogether, 87 respondents (77 organisations and 10 individuals) made comments.

### Aspects of the guidance respondents found helpful

- 9.5 Those commenting positively on the guidance at this section particularly welcomed the emphasis on collaborative working.

### Aspects of the guidance requiring clarification or additional guidance

- 9.6 Respondents highlighted a number of specific areas where they sought clarification or additional guidance.

### ***The nature of the duty***

9.7 Although some respondents welcomed the collaborative approach described in the guidance, others felt that the duty offered too much discretion to refuse a request – the phrase, ‘This power is *not expected to be used in a directive way...*’ (9.1.2) was picked out by some. There were calls for further guidance on minimum expectations in responding to requests, grounds for refusing requests, and accountability if services were not provided.

### ***The referral process***

9.8 Respondents representing services queried if Named Persons would always be best qualified to assess needs and urgency, and frame a specific request for assistance (e.g. in relation to the need for speech and language support). They sought clarity on acceptable responses to requests and whether service providers were expected to carry out their own assessment and provide advice on the appropriate course of action. They also highlighted the difficulty of assessing potential impact on ‘wellbeing’ on the basis of a single referral.

9.9 Respondents suggested the following requirements be added to the guidance:

- Logging and monitoring of requests and responses
- Informing the Named Person on the outcome of an intervention
- Informing the family of the outcome of requests.

9.10 Other respondents noted that, currently, local practices did not always allow direct referrals from all professionals, and that not all service providers and relevant authorities would be familiar with the wellbeing indicators.

9.11 Respondents thought that examples of appropriate requests from Named Persons and responses from service providers would be helpful.

### ***Timescales and prioritisations***

9.12 Respondents frequently asked for additional guidance on timescales and prioritisation in responding to requests. In particular, guidance was sought on the relative prioritisation of Named Person requests and other referrals, particularly where there were waiting lists for services.

### ***Grounds for refusing requests***

9.13 A key point of clarification for respondents related to the grounds for refusing requests. Although the duty to provide ‘clear reasoning’ was welcomed by some, others were concerned that this was open to interpretation. Respondents sought further clarity on acceptable reasons for refusing requests and, in particular, whether resource constraints would be regarded as an acceptable reason.

### ***Action following refusal of request***

- 9.14 There was a clear view among respondents that the guidance needed to cover action which might be taken when requests were refused and processes for resolving disputes. Some were keen for disputes to be resolved through dialogue, while others favoured an appeal or complaints process.

### **Other comments**

- 9.15 Respondents frequently expressed concerns about the resource implications of this duty, the impact on the delivery of other services and targets, and whether services had the capacity to respond to all requests.
- 9.16 Respondents emphasised the importance of ensuring that relevant organisations and the staff within them were aware of and understood the duty. Several respondents highlighted the need for shared understandings of concepts such as wellbeing, and suggested the need for joint training on roles and remits of different services, and partnership working.
- 9.17 Third sector respondents were keen to see reference to the third sector in the guidance. They acknowledged that third sector bodies were not subject to the duty but argued that they played an important role in providing services to vulnerable children and families. Some raised concerns about the resource implications for third sector bodies, perhaps indicating a misunderstanding about the duty, and a need for clarity about the term 'service provider' (9.1.1).

### **Views of individual respondents**

- 9.18 Specific points made by individual respondents on the duty to help a Named Person included concerns about information sharing and the power and discretion given to service providers.



## **10 INFORMATION SHARING**

- 10.1 Section 10 of the draft guidance covers information sharing. Information sharing is integral to the operation of the Act and is referred to throughout the guidance. This section sets out guidance on the principles and practices to be followed in processing and sharing such information. Section 10 also contained guidance on seeking the views of the child in relation to information sharing. The guidance relates to Sections 23, 26 and 27 of the Act.
- 10.2 The consultation questionnaire included five questions on these sections of the guidance, which are each addressed below. There were, however, a range of general points raised in response to all the questions on information sharing, and these are summarised in a preliminary section below and are not repeated at any length in relation to individual questions.

### **General points on the presentation of the guidance on information sharing**

- 10.3 Respondents offered a range of general points and concerns about the guidance in this area. In particular they stressed that:
- This is a complex and specialist area which was likely to come under scrutiny, and staff had to be confident in carrying out their duties. Staff (Named Persons and others) needed robust practice guidance, training, and access to specialist advice.
  - Good practice in relation to storing and handling of information, and recording of decisions in relation to data sharing was essential (and current practice could not be assumed to be good).
- 10.4 There were widespread comments from all sectors that these sections of the guidance lacked clarity. The guidance was described as ‘the hardest section to access’. Respondents wished these sections to be simplified. The headings were thought to be confusing, and the cross-referencing was difficult to follow.
- 10.5 Respondents also commented that the guidance offered general principles only, and had very little to offer by way of practical help.

### **Q18: Information sharing when there are wellbeing concerns**

- 10.6 Question 18 in the consultation document asked ‘Is the draft guidance on these sections clear on requirements in relation to consideration and sharing of relevant and proportionate information when there are wellbeing concerns?’ Table 10.1 shows that 47% of organisations and 10% of individuals agreed, while 53% of organisations and 90% of individuals disagreed.

**Table 10.1: Question 18**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	8	(50%)	8	(50%)	16	(100%)
Health organisations	7	(44%)	9	(56%)	16	(100%)
Partnership bodies and joint responses	9	(60%)	6	(40%)	15	(100%)
Other national public sector bodies	3	(60%)	2	(40%)	5	(100%)
Third sector organisations	8	(42%)	11	(58%)	19	(100%)
Professional groups	4	(36%)	7	(64%)	11	(100%)
Other organisational respondents	3	(38%)	5	(63%)	8	(100%)
<b>Total organisations*</b>	<b>42</b>	<b>(47%)</b>	<b>48</b>	<b>(53%)</b>	<b>90</b>	<b>(100%)</b>
Individual respondents	3	(10%)	27	(90%)	30	(100%)

\* Two respondents ticked both 'yes' and 'no'. These responses are not included in the table. Percentages do not all total 100% due to rounding.

- 10.7 Organisational subgroups were largely divided in their views about whether this section of the guidance was clear. Partnership bodies and other national public sector bodies were most likely to say it was; while professional groups and other organisational respondents were most likely to say it was not.
- 10.8 Altogether, 114 respondents (94 organisations and 20 individuals) made comments in relation to Question 18.

### ***Aspects of the guidance that respondents found helpful***

- 10.9 Those commenting positively on the guidance did so on a general level or specifically welcomed the links to the Data Protection Act (DPA) and the requirement to comply with DPA principles.
- 10.10 Respondents highlighted issues which they thought needed clarification or additional guidance, and also raised wider points for consideration.

### ***Issues requiring clarification or additional guidance***

- 10.11 Respondents raised a series of specific areas where clarification or additional guidance was required. There were many requests for detailed practitioner guidance, more local guidance, and some national guidance. It was suggested that practitioner guidance should be developed separately for each key professional group, and that there should be information-sharing protocols developed between health professionals, schools (including independent schools) and the third sector.
- 10.12 More detail was requested on when and how information should be shared with the Named Person. Respondents wanted to know: what should be shared with the Named Person; when information should be shared with the Named Person and when it should be shared with the Named Person service; and when 'third party' information should be disclosed to the Named Person.

- 10.13 More clarity was requested about information sharing at points of transition. This might be when the Named Person service changed, or when there was a life transition for the child (for example from primary to secondary school).
- 10.14 More clarity and guidance was requested in relation to confidentiality. There were requests for greater clarity in relation to sharing information: with the wider family; in a highly local context (e.g. small rural settings); if it was of a confidential nature (e.g. health related); where information had been disclosed to third sector organisations with an understanding that it would not be shared further. There were concerns about potential breaches of privacy.
- 10.15 More guidance was also requested in relation to the use of secure (shared) systems. In particular:
- How long would information be stored? How would it be audited?
  - How would the destruction / removal of stored information be arranged?
  - Who would be the Data Controller?
  - How does this guidance link to the Public Records Act?
  - When is a decision to override Article 8 and share information justified?

#### ***Other issues / suggestions / more general comments***

- 10.16 Respondents raised the issue of consistency, and queried how this could be achieved. It was thought that terms such as 'relevant and proportionate' and 'likely to be relevant' were open to interpretation. Some respondents felt these terms gave too much power and discretion to the Named Person.
- 10.17 Respondents thought that there was a lot of difficulty inherent in overcoming the organisational barriers relating to data protection and information governance. These currently act to inhibit smooth transitions and it was not clear how these would be resolved.
- 10.18 There were a few comments to the effect that this guidance was in conflict with other guidance and legislation. In particular, a potential conflict with child protection guidance, and with DPA, UNCRC and ECHR were identified.
- 10.19 Wider concerns about the Act were expressed. These highlighted the difficulties of defining wellbeing, the potential breaches of the DPA, the undesirability of taking power away from parents, the disregard for confidentiality, the lack of proportion in the measures, the amount of discretion given to the Named Person, and the lack of a scientific rationale for the Act.

#### ***Views from individual respondents***

- 10.20 In general, individuals who commented on this section were opposed to the Act, and the points they raised are discussed in paragraph 10.19 above.

## Q19: The arrangements that authorities will need to put in place

10.21 Question 19 asked: 'Does the draft guidance make clear the arrangements and processes that authorities will need to put in place to facilitate and support the consideration and sharing of relevant and proportionate information?' Table 10.2 shows that 54% of organisations and 16% of individuals agreed, while 46% of organisations and 84% of individuals disagreed.

**Table 10.2: Question 19**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	8	(57%)	6	(43%)	14	(100%)
Health organisations	11	(73%)	4	(27%)	15	(100%)
Partnership bodies and joint responses	8	(53%)	7	(47%)	15	(100%)
Other national public sector bodies	3	(60%)	2	(40%)	5	(100%)
Third sector organisations	9	(47%)	10	(53%)	19	(100%)
Professional groups	4	(40%)	6	(60%)	10	(100%)
Other organisational respondents	3	(43%)	4	(57%)	7	(100%)
<b>Total organisations*</b>	<b>46</b>	<b>(54%)</b>	<b>39</b>	<b>(46%)</b>	<b>85</b>	<b>(100%)</b>
Individual respondents	4	(16%)	21	(84%)	25	(100%)

\* One respondent ticked both 'yes' and 'no'. This response is not included in the table. Percentages do not all total 100% due to rounding.

10.22 In general, organisational respondents were divided in their views on this question. However, health organisations were more likely than other organisational respondents to agree.

10.23 Altogether, 84 respondents (74 organisations and 10 individuals) made comments at Question 19.

### ***Aspects of the guidance respondents found helpful***

10.24 A few respondents commented that (some aspect of) the guidance was clear. There were no clear patterns in the positive comments offered; each one was individual. However, the point was made that, while the principles in this area were easy (and by implication the guidance on the principles was straightforward), practice itself in this area was complex.

### ***Overall comments on the (clarity of) the guidance***

10.25 Respondents often went on to make further comments. For the most part, only specific points were offered; this was because respondents commented that: a) their comments in relation to this question had already been included at Question 18, or b) that the guidance needed to be generally clearer.

### **Specific comments on the guidance**

10.26 As far as comments specifically relating to Question 19 were concerned, the largest number of comments concerned the (lack of) compatibility of IT systems and processes, the challenges presented by electronic data sharing across different systems, and the need for more infrastructure support to address this. It was pointed out that systems were already in place and that these required to be reviewed, rather than developed from scratch.

### **Views from individual respondents**

10.27 The comments from individuals were often cast in negative terms, and focused on opposition to the Act as a whole. Where the individual comments were more directly focused on the question, they emphasised the importance of absolute clarity of the guidance in every aspect, given the potentially controversial nature of the information-sharing arrangements. Comments covered: the accountability of the Named Person; ensuring the provisions of the DPA were adhered to; setting out safeguards to protect privacy; and the question of redress where something goes wrong.

### **Q20: Meeting the requirements of the Data Protection Act and European Convention on Human Rights**

10.28 The DPA provides the overall legal framework for data handling under the Act, while consideration of the ECHR should inform individual information-sharing decisions. This is covered in Section 10 of the guidance, with further detail provided in an annex, and via appropriate web links.

10.29 Question 20 in the consultation document asked, 'Does the draft guidance make clear that the sharing of relevant and proportionate information under this Act must meet the requirements of the Data Protection Act 1998 and the European Convention of Human Rights?' Table 10.3 shows that 77% of organisations and 12% of individuals agreed, while 23% of organisations and 88% of individuals disagreed.

**Table 10.3: Question 20**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	12	(75%)	4	(25%)	16	(100%)
Health organisations	15	(94%)	1	(6%)	16	(100%)
Partnership bodies and joint responses	10	(67%)	5	(33%)	15	(100%)
Other national public sector bodies	4	(80%)	1	(20%)	5	(100%)
Third sector organisations	14	(78%)	4	(22%)	18	(100%)
Professional groups	8	(80%)	2	(20%)	10	(100%)
Other organisational respondents	5	(63%)	3	(38%)	8	(100%)
<b>Total organisations</b>	<b>68</b>	<b>(77%)</b>	<b>20</b>	<b>(23%)</b>	<b>88</b>	<b>(100%)</b>
Individual respondents	3	(12%)	23	(88%)	26	(100%)

Percentages do not all total 100% due to rounding.

10.30 A majority of organisations in each category agreed that the guidance was clear on the need to meet the requirements of the DPA and ECHR. Health organisations were most likely to agree (94%), while 'other' organisations were least likely to agree (63%).

10.31 Altogether, 75 respondents (60 organisations and 15 individuals) made comments.

### ***Aspects of the guidance respondents found helpful***

10.32 Those commenting positively on the guidance highlighted the attention given to recording of decisions relating to information sharing, confidentiality and the voice of the child as well as the additional information contained in the related Appendix as being particularly helpful. Some of those who thought the guidance clear and / or helpful nevertheless acknowledged this as a difficult area and emphasised the need for guidance aimed at practitioners.

### ***Aspects requiring clarification or more guidance***

10.33 Respondents called for clarity or more guidance on issues including:

- Situations where consent to information sharing is refused, and circumstances justifying breaching confidentiality or not seeking consent
- Handover of routine information at transition points
- Working with 16 to 18 year olds
- The use of DPA exemptions relating to the prevention of crime and prejudicing criminal investigations and proceedings
- Distinguishing between information held by an organisation as a result of Named Person duties and information held for other reasons.

10.34 There were also many other comments of a general nature which related to the need for clarity on balancing the Act's objectives of promoting the child's best interests with meeting the requirement of the DPA and ECHR.

### ***General comments and concerns***

10.35 As well as the specific points noted above, respondents also suggested that the guidance needed to include more context relating to the wider policy framework, conventions and legislation and fuller explanations of its relevance and interpretation (in general and in relation to specific points). Reference was made to the Human Rights Act, ECHR, and UNCRC, the DPA and Information Commissioner's Code of Practice.

10.36 A small number of respondents argued that the Act and related guidance did not comply with the DPA or ECHR in relation to data sharing.

## Views of individual respondents

10.37 Individuals had significant concerns about data sharing, and this was reflected in their comments at Question 20 which can be summarised as follows:

- The Act and guidance over-rode the rights of parents and families and did not represent a correct interpretation of the DPA or ECHR.
- The thresholds for data sharing were too low, and there were insufficient safeguards to ensure data was properly protected.
- More guidance and oversight was required for those implementing the Act to ensure the DPA and ECHR were adhered to.

## Q21: Managing and sharing information where there is a duty of confidentiality

10.38 Sections 23 and 27 of the Act make provision for the sharing of information under particular circumstances where a duty of confidentiality exists. Specific guidance was provided on this within Section 10 of the statutory guidance, and Question 21 asked: 'Does the draft guidance make clear the arrangements for managing and sharing information when duties of confidentiality are a consideration?' Table 10.4 shows that 66% of organisations and 3% of individuals said 'yes', while 34% of organisations and 97% of individuals said 'no'.

**Table 10.4: Question 21**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	10	(63%)	6	(38%)	16	(100%)
Health organisations	9	(56%)	7	(44%)	16	(100%)
Partnership bodies and joint responses	10	(67%)	5	(33%)	15	(100%)
Other national public sector bodies	5	(100%)	0	(0%)	5	(100%)
Third sector organisations	11	(69%)	5	(31%)	16	(100%)
Professional groups	5	(63%)	3	(38%)	8	(100%)
Other organisational respondents	4	(67%)	2	(33%)	6	(100%)
<b>Total organisations*</b>	<b>54</b>	<b>(66%)</b>	<b>28</b>	<b>(34%)</b>	<b>82</b>	<b>(100%)</b>
Individual respondents	1	(3%)	30	(97%)	31	(100%)

\* One respondent ticked both 'yes' and 'no'. This response is not included in the table. Percentages do not all total 100% due to rounding.

10.39 A majority of all types of organisation agreed that arrangements were clear, although levels of agreement varied. All those representing other national public sector bodies agreed in contrast just over half of health organisations.

10.40 Altogether, 101 respondents (81 organisations and 20 individuals) made comments.

### ***Aspects of the guidance respondents found helpful***

10.41 Those commenting positively on the guidance welcomed the wellbeing threshold for information sharing and the attention given to the 'tests' for breaching confidentiality. They also thought the references to transition points, confidentiality as the 'default position' and the emphasis on seeking children's views were helpful.

### ***Areas needing clarity or further guidance***

10.42 Respondents called for further guidance on seeking and taking account of the views of children and parents, the threshold for sharing information without consent and balancing the principle of confidentiality with ensuring the wellbeing of the child. Respondents felt that the guidance should give greater prominence to the fact that the Act allowed confidentiality to be breached based on the judgement of the Named Person.

10.43 Respondents identified a number of specific situations which they thought raised particular issues and which would benefit from further clarification. These included: situations where there were child protection concerns; working with 16 to 18 year olds; handover of data at transition points; accessing archived information; sharing information related to parents; situations where the views of the child but not the parents might be sought; situations involving criminal proceedings; and responding to Freedom of Information requests.

10.44 Respondents also thought that guidance was needed on recording and sharing practitioner notes; sharing only directly relevant information; sharing information in multi-agency settings and with third sector partners; and evidencing and recording decisions on breaches of confidentiality.

10.45 At a general level, respondents often recognised this was a complex area. And called for the inclusion of specific scenarios and examples (e.g. relating to health or education settings). Some suggested the guidance could be improved by giving it more prominence, and presenting the relevant information in one place.

10.46 Respondents also noted the importance of ensuring that parents and children understood the legislation and guidance on confidentiality.

### ***Other comments***

10.47 A few respondents raised notes of caution about sharing information when there were confidentiality considerations, and made the following points:

- Confidentiality could be important in creating trust and safe boundaries.
- Sharing data in breach of confidence should be a 'last resort'.



- There would continue to be an unresolved tension between the provisions of the Act and professional codes of conduct.

### **Views from individual respondents**

10.48 Comments from individuals largely focused on the statements at 10.2.14. They were concerned that the guidance gave too little weight to the views of parents, was too subjective and that the wellbeing threshold was too low. They argued that the guidance went beyond the legislation and undermined the role of parents. They called for clear guidance on the grounds for over-riding or excluding parents from information-sharing decisions.

10.49 Individuals also expressed concern about security of confidential information.

### **Q22: The arrangements for considering the views of the child**

10.50 Question 22 focused on paragraphs 10.3.3 – 10.3.4 of the guidance and asked: ‘Are the arrangements set out for considering the views of the child clear?’ Table 10.5 shows that 69% of organisations and 27% of individuals agreed, while 31% of organisations and 73% of individuals disagreed.

**Table 10.5: Question 22**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	13	(81%)	3	(19%)	16	(100%)
Health organisations	14	(88%)	2	(13%)	16	(100%)
Partnership bodies and joint responses	11	(73%)	4	(27%)	15	(100%)
Other national public sector bodies	5	(100%)	0	(0%)	5	(100%)
Third sector organisations	10	(45%)	12	(55%)	22	(100%)
Professional groups	8	(73%)	3	(27%)	11	(100%)
Other organisational respondents	3	(38%)	5	(63%)	8	(100%)
<b>Total organisations</b>	<b>64</b>	<b>(69%)</b>	<b>29</b>	<b>(31%)</b>	<b>93</b>	<b>(100%)</b>
Individual respondents	7	(27%)	19	(73%)	26	(100%)

Percentages do not all total 100% due to rounding.

10.51 Third sector organisations and ‘other organisational respondents’ were less likely than other organisational subgroups to say the guidance was clear.

10.52 Altogether, 93 respondents (80 organisations and 13 individuals) made comments in relation to Question 22.

10.53 Respondents offering positive comments on the clarity and helpfulness of the guidance highlighted aspects such as a) the arrangements for sharing information (including when information is NOT shared) b) the mention of children with communication difficulties and the importance of consulting them and c) the proposal for a consultation on a complaints procedure.

### ***Issues requiring clarification or additional guidance***

10.54 Respondents highlighted issues which they thought needed clarification or additional guidance, as set out below.

#### *How should children's views be obtained?*

10.55 Respondents thought that whilst the guidance was clear that children's views should be obtained, there was no guidance about how this should be done, especially for young children or those with complex needs. Some (mainly third sector) organisations provided some information and details about how this should be done, using assistive technologies and creative approaches.

#### *Children and young people with communication difficulties or other disability*

10.56 Respondents emphasised the importance of obtaining views from all children and young people, including those with a communication difficulty or other disability. It was thought that the guidance should make clear the expectation that all these individuals should have their voices heard.

10.57 The phrase 'reasonably practicable' was not thought to be appropriate in this context; the requirement for this to happen needed to be made in stronger terms. Respondents also wished the guidance to include statements about the level of support which would be available to enable this to happen; they did not think it was acceptable that this should depend on the availability of resources. The importance of ensuring that the guidance was consistent with other legislation, particularly Articles 12, 16 of the UNCRC was highlighted.

10.58 Respondents also wished there to be a requirement set out in the guidance for a clear written account to be kept of what steps were taken to ensure the views of these individuals were heard.

#### *Sharing information*

10.59 A range of comments was made about particular situations where the requirement for sharing of information needed further clarification. For example: where the child does not want to share their views – either with the Named Person or the parent; whether it was the Named Person who would make the judgement about whether information was shared; where situations of domestic abuse or a criminal investigation were involved.

10.60 More detail was requested on the timescales for retaining shared information.

### ***Other issues / suggestions / more general comments***

10.61 Respondents highlighted wider issues for consideration as noted below.

10.62 A range of respondents highlighted the importance that ascertaining and recording the views of the children needed to be seen as the default position;

this should not be done only in rare and exceptional circumstances. In particular it was emphasised that there should be a strong expectation that the views of children with disabilities should have their views heard.

- 10.63 Respondents across different organisational groups queried the assertion that ‘whether the child has the capacity to make decisions is ultimately a matter of professional judgement’. It was suggested by professional organisations that this should be reworded as ‘whether the child has the capacity to make decisions can reliably be judged by reference to an up-to-date evidence-based profile of the child or young person’s communication capacity’.
- 10.64 It was suggested that guidance needed to be developed in relation to a process for allowing individuals the right to challenge information held about them. This might involve some form of independent arbitration process. Guidance was also required in relation to the legal rights of 16 to 18 year olds in relation to decision making. The situation for the group was described as ‘complex’ and the omission of any guidance in this area was described as ‘significant’. The arrangements for the provision of staff training, and the availability of resources for this purpose, also needed to be discussed.
- 10.65 Some respondents commented that the differentiation between ‘children’ and ‘young people’ was not clear or consistent throughout guidance.

#### ***Views from individual respondents***

- 10.66 Some individuals commented about their wider concerns with the Act, and its impacts. For those who discussed the question as posed, questions were raised about the complexity of the language, the importance of obtaining consent except in extreme situations, the perceived lack of expertise in communicating with children, and the powers of the Named Person (which were implied to be too wide ranging). Two individuals highlighted the positive references to engaging with children who have communication difficulties.

## 11 Q23: NAMED PERSON SERVICE – OTHER COMMENTS

11.1 Question 23 in the consultation document asked ‘Please provide any other general comments about the draft guidance on the Named Person service, including the information sharing sections?’

11.2 A total of 181 respondents (84 organisations and 97 individuals) offered general comments,<sup>7</sup> which represents almost two-thirds of respondents (64%). Almost three-quarters of individuals (73%) and over half of organisational respondents (56%) made comments.

### Views of organisational respondents

11.3 In most cases, organisational responses to Question 23 recapped points that they had already made in response to earlier questions. A few respondents raised concerns about the practicalities of the guidance relating to cross-border arrangements and young people in the armed services (specific consultation questions were not included on these points).

### General issues

11.4 Other general topics and issues commented on by organisational respondents included:

- Presentational issues: This included the need for clearer and simpler language; more examples; diagrams and flowcharts; operational guidance at local and national levels; more precise definition of key terms; a list of definitions; and the removal of detail from statutory guidance.
- Expectations and role of the Named Person including their relationship with the Lead Professional and with parents: This included accountability arrangements; their training and qualifications; their professional backgrounds; their relationship with child protection; whether and how an individual can ‘opt out’ of being a Named Person; and the extent to which a child / parent can influence the choice of Named Person.
- Information sharing: Reference was made to sharing of ‘strengths’ as well as concerns; how this operates beyond Scotland’s boundaries; the importance of always getting consent; how information sharing works in criminal investigations; the safeguards in relation to sharing information on sensitive issues; sharing with GPs and adult services; and what happens when the individual is no longer within the Named Person service.
- Consistency with other legislation and conventions: Respondents referred to UNCRC, DPA, ECHR, etc., and ICO principles and practices.

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<sup>7</sup> This includes respondents who submitted non-standard responses commenting on the Act rather than the guidance per se – their responses were allocated to Question 23 for analysis purposes.

- Working with specific subgroups: These included, for example, disabled children, those who are looked after, care leavers, those who need a Named Person service after their 18<sup>th</sup> birthday, and those who are moving on and off the child protection register.

11.5 Respondents also noted workload and resource issues including the concern about impact on teachers and health visitors; the burden and impact on existing services; and the need for new and improved IT systems.

11.6 A small number of organisational respondents commented that they were not in favour of this legislation, and made similar arguments to those of individual respondents, as set out below.

### **Views from individual respondents**

11.7 For the most part, the comments from individuals focused on their reasons for opposing the legislation in relation to the Named Person service. The main arguments covered reasons of principle and reasons relating to implementation. These arguments have been set out in detail in paragraphs 3.29 – 3.31 above and are not repeated here.

11.8 A smaller number of comments were directed at specific aspects of the legislation.

### ***Other issues raised***

11.9 Other issues raised by individual respondents included that:

- The legislation itself does not rule out seeking parental consent; thus the guidance appears to be going beyond the legislation itself.
- The list of things that the Named Person is supposed to have ‘a clear understanding of’ seemed unrealistic for people who were already busy professionals with a wide range of existing responsibilities.
- The guidance required to address issues around the complaints / appeals process.
- The treatment of information ‘not likely to be relevant’ is problematic and needs further consideration in terms of how it is handled and how long it is retained for.
- There is a contradiction between the holistic nature of the (first part) of the guidance which considers wellbeing issues, and the information-sharing sections which carefully restrict the provision of information. These need to be brought into harmony.

## 12 THE CHILD’S PLAN

12.1 Section 11 of the statutory guidance concerned the preparation, review and management of Child’s Plans. This guidance relates to Part 5 (Sections 33–45) of the Act. The consultation asked 14 questions about Section 11 (Questions 25–38). Respondents’ views in relation to the first five of these questions (Questions 25–29) will be discussed in this chapter. Chapter 13 discusses Questions 30–35, and Chapter 14 covers Questions 35–38.

### Q25: Child’s Plan requirement

12.2 Question 25 concerned sections 11.2.4 – 11.2.5 of the guidance and asked: ‘Is the draft guidance clear about the definition and explanation of what constitutes a ‘targeted intervention?’’. Table 12.1 shows that 54% of organisations and 15% of individuals agreed, while 46% of organisations and 85% of individuals disagreed.

**Table 12.1: Question 25**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	7	(50%)	7	(50%)	14	(100%)
Health organisations	8	(50%)	8	(50%)	16	(100%)
Partnership bodies and joint responses	10	(67%)	5	(33%)	15	(100%)
Other national public sector bodies	4	(80%)	1	(20%)	5	(100%)
Third sector organisations	11	(42%)	15	(58%)	26	(100%)
Professional groups	7	(64%)	4	(36%)	11	(100%)
Other organisational respondents	4	(57%)	3	(43%)	7	(100%)
<b>Total organisations*</b>	<b>51</b>	<b>(54%)</b>	<b>43</b>	<b>(46%)</b>	<b>94</b>	<b>(100%)</b>
Individual respondents	3	(15%)	17	(85%)	20	(100%)

\* Two respondents ticked both ‘yes’ and ‘no’. These responses are not included in the table. Percentages do not all total 100% due to rounding.

12.3 Local authorities and health organisations were divided in their views on this question, while third sector respondents were less likely than other organisational respondents to say that the guidance was clear.

12.4 Altogether, 105 respondents (96 organisations and 9 individuals) commented at Question 25.

### *Aspects of the guidance respondents found helpful*

12.5 Respondents who ticked ‘yes’ at Question 25 often prefaced their comments by stating, ‘The guidance is clear but...’, and then went on to highlight issues for which they wanted clarification. In terms of what they found helpful, respondents pointed to statements within the guidance that: (a) the judgement of whether a child requires a Child’s Plan will be made ‘based on a holistic knowledge of child, informed by the use of the National Practice Model’, and

(b) that the wellbeing needs of the child 'can most often be met by support from their family, community resources or the support generally available within universal services'.

### ***Aspects of the guidance that were less helpful or which require clarification***

#### *Definition of a targeted intervention*

- 12.6 Respondents who ticked 'no' at Question 25 generally wanted clarification about the definition of a 'targeted intervention', while those who ticked 'yes' said that the definition of a 'targeted intervention' was clear, but (a) they had concerns about the definition and / or (b) they felt the examples given of targeted interventions were unhelpful or unclear.
- 12.7 The main point made by both groups was that the approach set out in the draft guidance – which links the creation of a Child's Plan to the need for a 'targeted intervention' – and the definition of a targeted intervention, which is based on local context and service design – will result in considerable variation and inconsistency between local areas in the number of Child's Plans created. Respondents saw this as problematic because:
- It could cause confusion, both for practitioners in universal services, and members of the public (families in particular).
  - For the purposes of national reporting, it means that the number of Child's Plans will not reflect levels of vulnerability in local areas, but rather local service arrangements.
  - If a child moves from one area to another, the support they had been receiving through universal services in the first area may be considered to be a targeted intervention in another area, and so may not be available.
- 12.8 Respondents repeatedly requested clarification about the distinction between 'services that are available generally' and a 'targeted intervention', often presenting specific scenarios to illustrate their queries. For example:
- Is a Family Nurse Partnership a targeted intervention?
  - If a GP refers a child to speech therapy, is this a targeted intervention?
  - Is an Individualised Educational Programme a targeted intervention?
- 12.9 Some suggested that the guidance should set out what comprised universal services (or services that are available generally), as this would clarify what a targeted intervention is. Respondents also thought that the lack of distinction in the guidance between a 'targeted' and a 'specialist' intervention was confusing.

### *Examples given in the draft guidance*

12.10 Respondents frequently stated that the examples given in the draft guidance (at paragraph 11.2.5) were ‘unhelpful’. Such comments were made both by those who ticked ‘yes’ and those who ticked ‘no’ at Question 25. In particular, speech and language therapy input, inclusion in a school nurture class and parent and child participation in a healthy weight programme were all considered to be available through universal services, and thus not requiring a targeted intervention or a Child’s Plan.

12.11 Respondents made many suggestions about other examples of targeted interventions they wanted to see in the guidance:

- Targeted interventions (including intensive support services) provided by a third sector or other non-statutory organisation
- Targeted interventions for disabled children
- Early years nursery provision for children under three.

12.12 In addition, it was thought that if a targeted intervention could also include the provision of support to parents (and not just children), this should be made explicit in the guidance, and not just listed as an example.

### *Other issues / suggestions*

12.13 Respondents variously wanted the guidance to include:

- Discussion of ‘staged assessment processes’
- Clarification about when an intervention begins and ends
- Details about how third sector agencies delivering targeted interventions not under a contractual arrangement will be involved in the planning process.

### ***Comments from individual respondents***

12.14 Individual respondents commented that the definition of a targeted intervention could not be clear so long as the definition of wellbeing is unclear. There were also concerns about the policy being used for the purposes of state surveillance.

### **Q26: Child’s Plan requirement**

12.15 Question 26 concerned paragraphs 11.2.7 – 11.2.12 of the guidance and asked: ‘Are the arrangements for seeking the views of the child, parents and others during consideration of the need for a Child’s Plan set out clearly in the draft guidance? Table 12.2 shows that 77% of organisations and 9% of individuals agreed, while 23% of organisations and 91% of individuals disagreed.



**Table 12.2: Question 26**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	13	(87%)	2	(13%)	15	(100%)
Health organisations	15	(94%)	1	(6%)	16	(100%)
Partnership bodies and joint responses	13	(100%)	0	(0%)	13	(100%)
Other national public sector bodies	4	(80%)	1	(20%)	5	(100%)
Third sector organisations	12	(44%)	15	(56%)	27	(100%)
Professional groups	9	(90%)	1	(10%)	10	(100%)
Other organisational respondents	4	(80%)	1	(20%)	5	(100%)
<b>Total organisations*</b>	<b>70</b>	<b>(77%)</b>	<b>21</b>	<b>(23%)</b>	<b>91</b>	<b>(100%)</b>
Individual respondents	2	(9%)	20	(91%)	22	(100%)

\* Two respondents ticked both 'yes' and 'no'. These responses are not included in the table. Percentages do not all total 100% due to rounding.

12.16 Most organisational respondents thought the arrangements for seeking the views of the child, parents and others were clearly set out in the guidance – apart from third sector respondents, a majority of whom thought the guidance was not clear on this point.

12.17 Altogether, 88 respondents (76 organisations and 12 individuals) commented at Question 26.

### ***Aspects of the guidance respondents found helpful***

12.18 Respondents welcomed the requirement to consult parents and children in considering whether the child has a need in relation to their wellbeing. There was particularly strong support for the statement that the requirement to consult a child should be irrespective of whether the child has a communication or learning difficulty. Respondents also thought that the statement about involving other key people in discussions about the content of the Plan was helpful (paragraph 11.2.9).

### ***Aspects of the guidance that were less helpful or which require clarification***

#### *Getting the views of children and young people*

12.19 The two main points made by respondents (third sector respondents, in particular) were that, the guidance should be amended as follows:

- In paragraph 11.2.7, 'so far as reasonably practicable' should be removed from the second sentence: respondents wanted the guidance to reflect the presumption that the views of children and young people and their parents are always sought and taken into account, in line with their rights, unless there are exceptional circumstances for not doing so.
- Similarly, in paragraph 11.2.8, the statement that a child's views may be given 'less weight' should be removed: this statement was seen to be

contrary to the UNCRC Article 12 and the UN Convention on the Rights of Persons with Disabilities Article 7, which require that the views of the child / disabled child are given full consideration. Respondents argued that even very young children (below the age of 12) are able to give their views, and suggested that practice guidance should include information / tools to support practitioners in this.

12.20 In relation to these points, respondents suggested a range of inclusive methods / tools to assist in communicating with children and young people, such as: Boardmaker, BSL, Talking Mats, Easy Read, My World Triangle. There was also a reference to a published article on guidelines for communicating with children with learning disabilities,<sup>8</sup> and there was a suggestion that there should be a requirement to provide interpreters for asylum seekers.

*Where there is disagreement between practitioners and parents / children*

12.21 Respondents felt the guidance needed to include information about: (a) the procedures if the parent (or child) is not in agreement with the plan; (b) what arrangements should be in place for addressing dissatisfaction / disagreement; (c) mechanisms for appeal or redress.

12.22 There was a view that the Child's Plan should be drawn up based on the needs of the child, and not triggered by parental request. However, there was also an argument that parental disagreement should not be a valid reason for not having a Child's Plan.

*Other areas for clarification, or suggestions for improvement*

12.23 Other points, raised less often, were that:

- Section 11.2.7 states that the child's parent should be involved in the discussion about whether a Child's Plan is needed; however, this would not necessarily apply if: the child is in the care of someone else (as suggested in 11.2.9) or if the child was over 16 (thus able to make independent decisions).
- Clarity is needed about how Self-Directed Support arrangements would apply. In such situations, it may be the parent, not the Lead Professional, who decides on the appropriate interventions.
- If the views of a parent or child are sought and not received, or if information is not shared with the parents, the reason for this should be recorded.

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<sup>8</sup> Lewis A and Porter J (2004) Interviewing children and young people with learning disabilities: guidelines for researchers and multi-professional practice. *British Journal of Learning Disabilities*.

- It was suggested (both by health and third sector organisations) that the guidance should explicitly state (at 11.2.9, part b) that third sector organisations who provide a service to the child should be consulted.

### **Views of individual respondents**

12.24 Individual respondents generally thought that the views of parents should not only be sought, but respected and given priority. Some perceived that the draft guidance was suggesting that the views of parents could be disregarded on subjective grounds. Some individuals also thought the parents (not the Named Person) should decide if a child needs a Child’s Plan.

### **Q27: Content of a Child’s Plan**

12.25 Question 27 focused on paragraphs 11.3.1 – 11.3.9 of the guidance and the draft Child’s Plan Order. The question asked, ‘Do you agree that the content of the plan, as set out in the Schedule to the draft Order and described further in the draft guidance, is clear and covers the full range of likely circumstances?’ Table 12.3 below shows that 67% of organisations and 14% of individuals agreed, and 33% of organisations and 86% of individuals disagreed.

**Table 12.3: Question 27**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	13	(81%)	3	(19%)	16	(100%)
Health organisations	13	(81%)	3	(19%)	16	(100%)
Partnership bodies and joint responses	10	(67%)	5	(33%)	15	(100%)
Other national public sector bodies	4	(80%)	1	(20%)	5	(100%)
Third sector organisations	11	(53%)	10	(48%)	21	(100%)
Professional groups	5	(45%)	6	(55%)	11	(100%)
Other organisational respondents	4	(80%)	1	(20%)	5	(100%)
<b>Total organisations</b>	<b>60</b>	<b>(67%)</b>	<b>29</b>	<b>(33%)</b>	<b>89</b>	<b>(100%)</b>
Individual respondents	3	(14%)	18	(86%)	21	(100%)

Percentages do not all total 100% due to rounding.

12.26 While two-thirds of organisational respondents overall thought the content of the Child’s Plan was clear, the views of third sector organisations and professional groups were divided.

12.27 Altogether, 91 respondents (82 organisations and 9 individuals) commented at Question 27.

### **Aspects of the guidance respondents found helpful**

12.28 Different respondents highlighted the following aspects of the guidance which they found helpful: the explanations given at paragraph 11.3.5 regarding the minimum content of the Child’s Plan; the emphasis on the Plan being written

in language which is accessible to all partners, including children and parents; and that the guidance makes clear that certain information may be sensitive (or not relevant) to include in the Child's Plan.

***Aspects of the guidance that were less helpful or which require clarification***

12.29 Respondents requested clarification about several aspects of the guidance on this section. These comments are summarised below

***Disparities between the guidance, the draft Child's Plan Order and / or existing guidance / legislation***

12.30 Some respondents thought there were disparities between: a) the minimum data set specified in Part I of the draft Child's Plan Order, and b) various statements made in the guidance. Thus, they were not sure what should and should not be included in the Child's Plan. For example, the guidance (paragraph 11.3.3) states that the Plan should include information about the child's strengths and resilience; however, this is not included in the dataset in the draft Order. This same paragraph states that 'surplus' information (for example, information about a child's educational attainment) should not be recorded in the Child's Plan. Respondents wanted further details about what was considered to be 'surplus' information.

12.31 At the same time, the minimum data set in the draft Order did not include information which would be required in different decision-making forums, for example, in Children's Hearing, courts, or adoption panels. Respondents made the point that if the intention is to have a single Plan for a child, then the content of the Plan needs to be sufficient for all these forums. Related to this, respondents queried the statement in 11.3.4 that the Child's Plan should **not** contain the full multi-agency assessment, but rather only a summary of the assessments. Respondents noted that full multi-agency assessments are required by a Children's Hearing, and they expressed confusion about whether the Plan should contain the assessment or not.

12.32 Respondents called for a (national) Child's Plan template, along with examples of completed Child's Plans.

***Chronology of significant events***

12.33 There were frequent requests for clarification in relation to paragraphs 11.3.8 and 11.3.9 (regarding chronology of significant events). Respondents were unclear about whether the Child's Plan should include a single agency chronology, or multi-agency chronology – and whether the chronology was to be incorporated into the document, or attached as a separate document.

12.34 Some thought the guidance should emphasise the importance of an integrated (multi-agency) chronology. However, there was also a query about

how to manage a multi-agency chronology so that only significant and relevant information was shared to inform the creation of the Child's Plan.

- 12.35 Some respondents wanted more detail on what the chronology should contain, while others suggested it would be helpful for the guidance to include a link to the national guidance on the use of chronologies.

#### *Involving parents and children*

- 12.36 Respondents (particularly third sector respondents) strongly supported statements in the guidance about the importance of involving parents and children in the process of creating the Child's Plan, and they agreed with the requirement for the Child's Plan to be written in language that would be accessible to parents and children. However, the point was made that, for some disabled children (and indeed, for their parents), the process of involving them may itself require significant preparation and planning. Respondents questioned whether this would, in reality, be achieved.
- 12.37 There was also some concern about the need to manage expectations of families (particularly families with disabled children) as to what they will receive as a result of the Child's Plan. Respondents wanted the guidance to state clearly the circumstances in which it would **not** be appropriate to involve parents in the review of a Plan (e.g. in situations of domestic abuse), or to share information with a parent about the residence of the child / other parent.

#### *Concerns about 'targeted interventions'*

- 12.38 Respondents considered it to be problematic that a targeted intervention could only be included in the Child's Plan if the authority that should provide it agreed to do so. Respondents thought the guidance needed to explain how differences of professional opinion could be resolved about which intervention(s) may be needed for a child.

#### *Other issues / areas for clarification*

- 12.39 Different respondents commented that:
- Respondents with expertise in speech and language therapy thought the Child's Plan minimum dataset should include information about the child's (and parents') speech, language and communication capacity /needs.
  - The guidance contained no information about how parents / children could challenge decisions or the information contained in a Plan.
  - It was unclear who was responsible for holding the information contained in the Child's Plan.
  - The guidance would benefit from including a flowchart.

## **Views of individual respondents**

12.40 Individual respondents commented that: this section of the guidance was ‘too vague’, and that the role of parents appeared to be marginalised, rather than central. There was also a view that SHANARRI did not seem to provide an appropriate basis for creating a good plan. It was rather suggested that the plan should be positively focused on goals, not needs.

## **Q28: Clarity of arrangements and processes**

12.41 Question 28 focused on paragraphs 11.4.1 – 11.4.6 of the guidance and asked: ‘Are the arrangements and processes set out in the draft guidance for preparing the child’s plan clear?’ Table 12.4 below shows that 63% of organisations and 15% of individuals thought they were, and 38% of organisations and 85% of individuals thought they were not.

**Table 12.4: Question 28**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	11	(73%)	4	(27%)	15	(100%)
Health organisations	7	(58%)	5	(42%)	12	(100%)
Partnership bodies and joint responses	8	(57%)	6	(43%)	14	(100%)
Other national public sector bodies	3	(60%)	2	(40%)	5	(100%)
Third sector organisations	11	(58%)	8	(42%)	19	(100%)
Professional groups	6	(60%)	4	(40%)	10	(100%)
Other organisational respondents	4	(80%)	1	(20%)	5	(100%)
<b>Total organisations*</b>	<b>50</b>	<b>(63%)</b>	<b>30</b>	<b>(38%)</b>	<b>80</b>	<b>(100%)</b>
Individual respondents	3	(15%)	17	(85%)	20	(100%)

\* Three respondents ticked both ‘yes’ and ‘no’. These responses are not included in the table. Percentages do not all total 100% due to rounding.

12.42 The overall pattern of agreement / disagreement was similar across all organisational sectors.

12.43 Altogether, 79 respondents (71 organisations and 8 individuals) made comments at Question 28.

## **Aspects of the guidance respondents found helpful**

12.44 There was disagreement between respondents about what was helpful in this section of the guidance, and where clarification was needed. Some thought that the guidance was clear in relation to: the responsibility of the Named Person in initiating a Child’s Plan; the relationship between the Named Person and the Lead Professional; and the circumstances in which the Named Person would act as the Lead Professional. It was also thought that the guidance was clear about what should be done when there is a dispute about which service should prepare the Plan. However, it was more common for

respondents (including those who ticked 'yes' at Question 28) to request clarification about these same issues.

- 12.45 Different respondents commented that it was helpful that the guidance emphasised the rights of children and their parents to have their views heard in the process of preparing the Child's Plan.

### ***Aspects of the guidance that were less helpful / required clarification***

#### *Relationship between the Named Person and Lead Professional*

- 12.46 The main issue raised by respondents in their comments at Question 28 concerned the relationship between the Named Person and the Lead Professional. Respondents repeatedly asked for further details about this relationship, and there were frequent queries about the statements in paragraph 11.4.5 of the guidance which suggests that the Named Person will, in many cases, be responsible for preparing the Child's Plan, co-ordinating the delivery of the targeted intervention(s), and acting as the Lead Professional. Respondents expressed concerns about the capacity of the Named Person to take on these additional tasks, given the large number of children and young people they would already have responsibility for as a Named Person.
- 12.47 Some respondents thought it was unlikely that the Named Person would be the best person to initiate a Child's Plan for children who are deaf or disabled. Other respondents suggested that, where a child requires the statutory intervention of a social worker, the social worker should act as the Lead Professional.
- 12.48 Respondents also queried how the Named Person and Lead Professional roles (if they are filled by different people) will work together, particularly if the Lead Professional is not a member of school staff.
- 12.49 There were further concerns about the statement in 11.4.6 that, 'if there are disagreements about who is the most appropriate person to take on the Lead Professional role, there should be processes in place ... to make alternative arrangements....' Respondents thought this statement was too vague, and wanted greater clarity about these processes (including possible interim arrangements while disagreements were resolved), along with timescales for resolving disagreements.
- 12.50 Different respondents suggested the guidance should be revised to say explicitly that:
- The Lead Professional will be agreed (i.e. it should not be assumed that the Lead Professional will be the Named Person, even in situations where the targeted intervention(s) are provided by the education authority).

- The Lead Professional will be the main contact with the parents / family.
- The Named Person will consult with colleagues to determine the most appropriate intervention(s) for the child.

### *Role of the Named Person*

12.51 There were additional comments, specifically about the role of the Named Person in preparing the Child's Plan. Specifically, respondents made the following points:

- Guidance was needed about how different Named Persons would work together in relation to children of different ages in the same family.
- Clarification is needed about the powers of the Named Person and who is accountable for delivery of the Child's Plan.
- The guidance should enable other professionals to suggest to the Named Person that a Child's Plan may be beneficial.
- The Named Person may need training to be able to identify and act on a child's mental health problems.

### *Involving families in the creation of a Child's Plan*

12.52 Respondents reiterated the importance of involving children and their parents in the creation of the Child's Plan, and there were suggestions the guidance in relation to this could be strengthened. For example, it should be assumed that disabled children and even very young children are capable of contributing; and that the guidance could be amended to use 'must' rather than 'should' in relation to engaging with families. However, there was also a recognition that some families will be difficult to engage in the process, and respondents thought the guidance should provide details of how to handle these situations.

### *Other issues / requests for clarification*

12.53 Respondents wanted more detail about the processes for: initiating a Child's Plan, completing an assessment and preparing a Child's Plan, and further information about who, in a range of different circumstances, would have the main responsibility for producing and managing the Plan.

### ***Views of individual respondents***

12.54 Different individual respondents commented that this section of the guidance was 'vague' or 'unclear'. Others commented that parents should have a central role in the preparation of a Child's Plan, and that the guidance should explain what 'weight' will be given to the views, values and circumstances of families. There was also a suggestion that parents should be permitted to have a say in the choice of the Lead Professional.



## Q29: Integration of Child’s Plan and Co-ordinated Support Plan

12.55 Question 29 focused on paragraphs 11.4.7 – 11.4.10 and asked, ‘Does the draft guidance give clear support on how the child’s plan and the co-ordinated support plan should be integrated?’ Table 12.5 shows that 58% of organisations and 26% of individuals thought it did, and 42% of organisations and 74% of individuals thought it did not.

**Table 12.5: Question 29**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Third sector organisations	9	(47%)	10	(53%)	19	(100%)
Local authorities	9	(60%)	6	(40%)	15	(100%)
Health organisations	11	(69%)	5	(31%)	16	(100%)
Partnership bodies and joint responses	5	(38%)	8	(62%)	13	(100%)
Professional groups	10	(83%)	2	(17%)	12	(100%)
Other national public sector bodies	3	(60%)	2	(40%)	5	(100%)
Other organisational respondents	3	(50%)	3	(50%)	6	(100%)
<b>Total organisations*</b>	<b>50</b>	<b>(58%)</b>	<b>36</b>	<b>(42%)</b>	<b>86</b>	<b>(100%)</b>
Individual respondents	5	(26%)	14	(74%)	19	(100%)

\* Two respondents ticked both ‘yes’ and ‘no’. These responses are not included in the table. Percentages do not all total 100% due to rounding.

12.56 Among the organisational respondents, professional groups (i.e. Royal colleges, trade unions and regulatory bodies) were most likely to agree that the guidance was clear on this point. Third sector organisations and partnership bodies were more likely to disagree.

12.57 Altogether, 74 respondents (67 organisations and 7 individuals) made comments at Question 29.

### ***Aspects of the guidance respondents found helpful***

12.58 Some respondents who ticked ‘yes’ in response to Question 29 said that the guidance was very helpful and clear, and that the requirement for effective multi-disciplinary approaches for the purposes of integrating more than one plan was well articulated in the guidance. However, it was more common for respondents (including those who ticked ‘yes’) to say that the guidance was vague or that clarification was needed on a number of issues.

### ***Aspects of the guidance that were less helpful / required clarification***

12.59 The main point made by respondents in their comments at Question 29 was that ‘the guidance indicates that the Child’s Plan and Co-ordinated Support Plan (CSP) should be fully integrated, but does not say how this should be done’. Respondents thought the guidance was contradictory in places, and requested clarification about whether the intention is for the CSP to be part of the Child’s Plan, or a separate plan that stands alongside it.

12.60 Respondents recognised the statutory nature of the CSP, and understood that it must be a standalone document, but they did not think that the draft guidance had adequately explained how the 2014 Act would interact with the 2004 Act. Specifically:

- It was noted that a CSP requires a Support Plan Co-ordinator. This is a statutory role under the provisions of the 2004 Act, which is not acknowledged in the draft guidance. Respondents thought the guidance should explain how this role would relate to that of the Named Person and Lead Professional.
- Similarly, the 2004 Act gives parents a number of rights (including the right to refer to the ASN tribunal), but it is unclear what statutory rights parents will have in relation to the Child's Plan. Could the contents of a Child's Plan be disputed at an ASN tribunal if the CSP and Child's Plan are integrated?
- There was also a request for clarification about the difference between staged intervention (in the 2004 Act) vs targeted intervention (in 2014 Act).

12.61 In general, respondents wanted to see integration / alignment of the Child's Plan and CSP processes, to avoid duplication of effort. Some respondents (mainly local authorities and partnership bodies) suggested that there was no need for two plans if the Child's Plan was implemented effectively. (The question was asked: Are there any circumstances in which a child would have a CSP but not have a Child's Plan?) Among this group, there were some who suggested that the Additional Support for Learning legislation might be now repealed in light of the provisions of the 2014 Act. Alternatively, the CSP could be integrated into the Child's Plan as an annex – which can be produced as a standalone document where necessary. Therefore, any child who required a CSP would also, automatically, have a Child's Plan.

12.62 However, other respondents expressed concern about the legal status of the CSP being lost if the CSP was merged with the Child's Plan, and there were also concerns about information contained in the CSP being shared (as part of a Child's Plan) with individuals / practitioners who do not need to see it.

#### *Disputes between authorities related to the preparation of the Child's Plan*

12.63 The second point, made less often by respondents in their comments at Question 29, concerned paragraph 11.4.10, which referred to the possibility of disagreements between different authorities about which of them should prepare the Child's Plan.

12.64 The paragraph highlights that any disputes about preparation or management of the Child's Plan should be addressed through local procedures. However, it was suggested that the guidance should stipulate who has ultimate authority. Respondents expressed the view that relevant authorities should not be able

to 'opt out' if the responsibility lies with their service. It was also thought that it would be helpful to specify the timescales for resolving disputes.

#### *Other issues for clarification*

12.65 Other issues raised by respondents in relation to this section were that:

- The difference between 'responsible authority' and 'relevant authority' in this section is not clear.
- The guidance should be clearer about the distinction between targeted and universal interventions, particularly in relation to schools that are solely for children with complex health and social care needs.
- The guidance should provide further details about the management of the Child's Plan in the context of organisations like the Scottish Prison Service.

#### ***Views of individual respondents***

12.66 The substantive comments from individuals mainly focused on the difficulty of the language (perceived jargon) in this section.

## 13 RESPONSIBLE AUTHORITY, CHILD'S PLAN MANAGEMENT AND ASSISTANCE IN RELATION TO A CHILD'S PLAN

13.1 Responsible authorities have a duty to decide if a Child's Plan is required, and in most cases, to prepare the Child's Plan. Section 36 of the Act sets out details of who the responsible authority for a Child's Plan will be and Section 37 sets out the circumstances in which the responsible authority may be different to the definition in Section 36. Section 38 of the Act sets out the statutory duties of relevant authorities in relation to the delivery of the Child's Plan, and Section 39 outlines the management requirements and processes, and the functions of the 'managing authority' for the Plan. The consultation asked three questions about these sections.

### Q30: Responsible, relevant, directing and managing authorities

13.2 Question 30 asked: 'Does the draft guidance make clear the different roles of the responsible, relevant, directing and managing authorities?' Table 13.1 shows that 72% of organisations and 20% of individuals thought it did, and 28% of organisations and 80% of individuals thought it did not.

**Table 13.1: Question 30**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	11	(73%)	4	(27%)	15	(100%)
Health organisations	13	(87%)	2	(13%)	15	(100%)
Partnership bodies and joint responses	11	(85%)	2	(15%)	13	(100%)
Other national public sector bodies	3	(60%)	2	(40%)	5	(100%)
Third sector organisations	13	(68%)	6	(32%)	19	(100%)
Professional groups	4	(44%)	5	(56%)	9	(100%)
Other organisational respondents	3	(60%)	2	(40%)	5	(100%)
<b>Total organisations*</b>	<b>58</b>	<b>(72%)</b>	<b>23</b>	<b>(28%)</b>	<b>81</b>	<b>(100%)</b>
Individual respondents	4	(20%)	16	(80%)	20	(100%)

\* One respondent ticked both 'yes' and 'no'. This response is not included in the table. Percentages do not all total 100% due to rounding.

13.3 Three-quarters of organisations overall agreed that the guidance was clear about the roles of the responsible, relevant, directing and managing authorities. However, professional groups were more divided in their views.

13.4 Altogether, 63 respondents (54 organisations and 9 individuals) made comments at Question 30.

### *Aspects of the guidance respondents found helpful*

13.5 Respondents who ticked 'yes' at Question 30 commented that the guidance was clear, but then often went on to request clarification about specific points, or to make suggestions for improvement.

## ***Aspects of the guidance that were less helpful / required clarification***

### *Relationships between responsible, relevant, directing and managing authorities*

13.6 Irrespective of whether respondents answered 'yes' or 'no' to Question 30, they often commented on the complexity and difficulty of the information contained in Sections 11.5 – 11.7 of the guidance. A variety of suggestions were made to help clarify matters. These included: inserting a hyperlinked definition in the electronic version of the guidance every time one of these terms is mentioned and making greater use of flow charts and examples.

### *Cross-border arrangements*

- 13.7 Some respondents specifically requested clarification about each local authority's responsibility towards looked-after children where the child has been placed in another local authority area. Similar queries were raised in relation to the discussion of Grant Aided Special Schools (GASS), where there were different responsible authorities depending on whether the parent or the local authority made the decision to place the child in a GASS, and in relation to different kinship care arrangements (including where a child from England comes to live in Scotland with a kinship carer, and those where the child is and is not officially a looked-after child).
- 13.8 Phrases such as 'where the child normally lives' were thought to be problematic when a child is looked after away from home. It was noted that health services are always provided by the area in which the child lives, regardless of whether the child was placed in that area by the local authority or not, and it was suggested that it would be more practical, efficient and cost-effective if a similar arrangement existed between local authorities.

### *Children's Hearings and the Child's Plan*

- 13.9 Some respondents, including the Scottish Children's Reporter Administration (SCRA), commented that statements in paragraph 11.7.7 and 11.7.8 do not accurately reflect the roles of the children's hearings and the courts, nor the roles of agencies in providing information to them. The point was made that the Child's Plan should reflect the decisions made by the hearings or courts, not vice versa as the text currently suggests. Moreover, paragraph 11.7.8 suggests that a relevant authority can take steps to change decisions made in a Children's Hearing with which the authority may disagree. The point was made that the relevant authority may request a review where a child supervision order is in place; however, it would not be appropriate to request a review because the authority disagrees with the hearing's decision.
- 13.10 In addition, at paragraph 11.7.7, the reference should be to the Principal Reporter (or children's reporter) not SCRA.

## Other issues

- **Role of the Lead Professional:** Respondents requested further information about how the Lead Professional role relates to that of the Named Person. It was suggested that this section of the guidance was inconsistent about whether a third sector partner could act as the Lead Professional. There was also a query about the appropriateness of a family member / parent acting as the Lead Professional.
- **Managing disagreement:** Clarification was requested about who the 'responsible authority' would be if a Named Person decides a Child's Plan is required, but the 'relevant authority' disagrees (because the child does not meet their service access thresholds).

## Views of individual respondents

13.11 Comments made by individual respondents largely expressed disagreement with the legislation. However, there were also some substantive comments, namely that the process could be simplified by adopting a process similar to that already used for children with additional support needs (ASN), and that the guidance should be clearer about arrangements for children not in school.

## Q31: Child's Plan management

13.12 Question 31 focused on paragraphs 11.8.1 – 11.8.13 of the guidance and asked: 'Does the draft guidance make clear the processes and arrangements for managing the child's plan?' Table 13.2 shows that 60% of organisational respondents and 12% of individual respondents agreed, while 40% of organisational respondents and 88% of individual respondents disagreed.

**Table 13.2: Question 31**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	10	(63%)	6	(38%)	16	(100%)
Health organisations	10	(67%)	5	(33%)	15	(100%)
Partnership bodies and joint responses	8	(57%)	6	(43%)	14	(100%)
Other national public sector bodies	3	(60%)	2	(40%)	5	(100%)
Third sector organisations	11	(58%)	8	(42%)	19	(100%)
Professional groups	5	(50%)	5	(50%)	10	(100%)
Other organisational respondents	3	(60%)	2	(40%)	5	(100%)
<b>Total organisations</b>	<b>50</b>	<b>(60%)</b>	<b>34</b>	<b>(40%)</b>	<b>84</b>	<b>(100%)</b>
Individual respondents	2	(12%)	15	(88%)	17	(100%)

Percentages do not all total 100% due to rounding.

13.13 The pattern of agreement / disagreement was broadly similar across all organisational respondents, except in relation to professional groups where respondents were evenly divided in their views.

13.14 Altogether, 76 respondents (70 organisations and 6 individuals) made comments at Question 31.

***Aspects of the guidance respondents found helpful***

13.15 Respondents highlighted statements in this section of the guidance which they found helpful, including that:

- The role of the managing authority (paragraph 11.8.4) and possible responses of the Lead Professional (paragraph 11.8.10) were clearly set out.
- The National Practice Model is recommended as an assessment tool.
- The Lead Professional should actively involve the child and parents and take account of their views before taking action – and that communication or learning difficulties should not preclude this.
- The timescales for an initial review of the Child’s Plan were specified.
- Responsibility for the exercise of the Lead Professional role lies with the managing authority and not with any individual practitioner.

13.16 Most of those who ticked ‘yes’ went on to request further clarification, raising the same points as those who ticked ‘no’.

***Aspects of the guidance that were less helpful / required clarification***

*Relationship / interface between Named Person and Lead Professional*

13.17 Respondents repeatedly asked for further clarification and ‘much more detail’ about the relationship between the Named Person and the Lead Professional. Respondents asked a range of questions, including:

- Who has overall responsibility for the Child’s Plan once it has been initiated if the Named Person is not the Lead Professional?
- Does the Named Person maintain responsibility for updating the Plan based on information received from the Lead Professional, or does the Lead Professional take on responsibility for updating the Plan and ensure that the Named Person is kept informed of the changes?
- How is the Lead Professional (if different to the Named Person) supposed to involve the Named Person in planning and decision making – particularly in the case of looked-after children, where important decisions about placements and support are taken frequently?
- How will disagreements between the Named Person and Lead Professional be resolved?

13.18 There were also concerns about the potential for duplication of information sharing with both the Lead Professional and Named Person.

### *Managing the Child's Plan for a child subject to a Child Protection Order*

- 13.19 Respondents often requested clarification about the relationship between the draft guidance and the national guidance for child protection in Scotland, and between the processes of creating a Child's Plan, and the processes involved in the Children's Hearing system.
- 13.20 The point was made that the concept of 'managing authority' appeared to be identical to the concept of the 'implementation authority' (for a child subject to a compulsory supervision order). Thus it was suggested that the guidance should explicitly state that the managing authority will always be the same as the implementation authority in such cases.

### *Links to other legislation*

- 13.21 More broadly, local authority respondents wanted to see the guidance make better links to processes and procedures already in place related to existing legislation (including the Education (Additional Support for Learning) (Scotland) Act 2004, Looked After Children (Scotland) Regulations 2009, etc.) which impact on the arrangements for managing and reviewing (including timescales) certain children and young people's Plans.

### *Family member (or parent) as Lead Professional*

- 13.22 Respondents frequently expressed concern (in relation to paragraph 11.8.7) about the idea that a family member (or parent) may be able to act as the Lead Professional, not only because of the potential conflict of interest, but also because, in some cases, it could result in fewer safeguards in relation to child protection. Some respondents wanted clarification about whether the guidance was suggesting that a family member could act as Lead Professional only if they are employed by the managing authority, or if this idea was being introduced to facilitate Self-directed Support.

### *Lead Professional role fulfilled by a third sector organisation*

- 13.23 It was also suggested that the family may have a preference about who should act as Lead Professional, and the guidance should be worded to explicitly recognise this. It was suggested the statement (at 11.8.6 and 11.8.13) – that the management of the Child's Plan will be carried out on behalf of the managing authority, 'who will normally be the Lead Professional employer' – should be removed, and it should be made explicit that a third sector practitioner may act as Lead Professional.

### *Training for Named Persons and Lead Professionals*

- 13.24 Respondents asked for further information (or guidelines) about the training and qualifications required by the Name Person and / or Lead Professional, and felt that measures should be put into place to ensure that people had the



training they needed. It was suggested that specialised training may be required for those supporting children with specific disabilities and children (and their parents) affected by domestic abuse.

13.25 There were also concerns about the breadth of knowledge required by the Named Person, and about whether the systems and structures were in place in all areas of Scotland to support practitioners in fulfilling their duties.

#### *Timescales*

13.26 Respondents called for the guidance to include information about the timescales for initiating, completing and reviewing a Child's Plan, to ensure consistency of practice. The point was made that the guidance included the timescales for review, but not for the earlier stages.

#### *Other issues for clarification*

13.27 Other issues requiring clarification included:

- How a Child's Plan would be accessed and updated during school holidays
- Arrangements for managing the Child's Plan for young people in secure care or custody
- Arrangements for managing transitions to adult services or aftercare services for: looked-after children, disabled children, young people involved in the criminal justice system.

13.28 Some respondents also commented on the language and terminology in the guidance and suggested it could be more succinct. There were particular difficulties in differentiating between the 'responsible authority', 'managing authority' and 'relevant authority'.

#### ***Other suggestions for improvement***

13.29 Other points included that:

- The guidance should acknowledge that there may be cases when it is not in the child's best interests to involve parents / carers in professional meetings.
- The guidance should state that the Lead Professional should refer to (relevant) non-statutory agencies when reviewing and implementing the Child's Plan.

#### ***Views of individual respondents***

13.30 Individual respondents expressed concerns about the cost and bureaucracy of the arrangements, and emphasised the right of parents to look after the

wellbeing of their children. There was also a view that most children would not need 'a Plan'.

### **Q32: Transferring management of the Plan to another authority**

13.31 Question 32 focused on paragraphs 11.9.1 – 11.9.21 of the guidance and asked: 'Does the draft guidance make clear the arrangements for transferring management of a Child's Plan?' Table 13.3 below shows that 83% of organisational respondents and 24% of individual respondents agreed, and 17% of organisational respondents and 76% of individual respondents disagreed.

**Table 13.3: Question 32**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	12	(75%)	4	(25%)	16	(100%)
Health organisations	14	(93%)	1	(7%)	15	(100%)
Partnership bodies and joint responses	13	(87%)	2	(13%)	15	(100%)
Other national public sector bodies	5	(100%)	0	(0%)	5	(100%)
Third sector organisations	11	(69%)	5	(31%)	16	(100%)
Professional groups	9	(90%)	1	(10%)	10	(100%)
Other organisational respondents	4	(80%)	1	(20%)	5	(100%)
<b>Total organisations</b>	<b>68</b>	<b>(83%)</b>	<b>14</b>	<b>(17%)</b>	<b>82</b>	<b>(100%)</b>
Individual respondents	4	(24%)	13	(76%)	17	(100%)

Percentages do not all total 100% due to rounding.

13.32 The pattern of response among organisational respondents was broadly similar across all sectors.

13.33 Altogether 48 respondents (43 organisations and 5 individuals) made comments at Question 32.

#### ***Aspects of the guidance respondents found helpful***

13.34 Respondents who made comments about what was helpful in this section thought that the guidance was clear, comprehensive, and provided sufficient detail about when a transfer between managing authorities would be necessary, who had the responsibilities for transfer, and what those responsibilities were. Respondents also supported the idea that transfer should trigger a review of the Child's Plan.

#### ***Aspects of the guidance that were less helpful / required clarification***

13.35 However, there were a range of issues which respondents felt needed to be clarified. One local authority respondent noted that transfer arrangements were currently being piloted in their area, and on the basis of that experience felt that more guidance would be needed.

13.36 Although, as noted above, some respondents felt the guidance was clear in relation to who has the responsibility for managing transfers, other respondents felt that clarity was needed about which staff should be involved in the process. Within this latter group were those who thought the role of the Named Person role was clear, but that the role of the Lead Professional was not. In addition, there was a request for clarification about how the role of the Managing Authority (in the 2014 Act) relates to that of the Implementation Authority in the 2011 Act.

13.37 There were also comments and questions about the timescales for transfer. Some respondents wanted to see a greater emphasis on the timescales for reviews to ensure they are: a) undertaken; and b) there is adequate administrative support available to support them. The point was also made that the relationship between the transfer of a Child's Plan, and the transfer of the Named Person service should be more closely linked within the guidance. It was noted that one had a 10-day timeframe and the other a 6-week timeframe, which may cause confusion.

13.38 Clarification was also thought to be needed in relation to:

- Handling transfers for 16 to 18 year olds (particularly those who have left school)
- The rationale for 'not being able to comply' with parents' / child's wishes, how this should be communicated, and within what timescales
- Families who do not wish to make use of the Named Person service
- How families can challenge or appeal and where parents / children can access support to appeal
- How long a child must be residing in an area before the incoming authority is responsible for the Child's Plan (as some families move very frequently)
- The consequences if a Named Person fails to complete the transfer process
- How decisions related to the transfer of a Child's Plan should be recorded
- (In relation to paragraph 11.9.8), why, if a school aged child lives in one local authority area but attends school under the management of another local authority, a decision must be made about whether there is a need to transfer the management of the Child's Plan (it was suggested that the management of the Child's Plan should automatically be with the local authority where the child's school is located).

13.39 Respondents thought (in relation to paragraph 11.9.10) that it would be helpful if the guidance placed greater emphasis on the fact that the procedures described for transfer of a Child's Plan are already in place in all areas (in relation to Child Protection Plans). However, there was also a comment that the guidance for Child's Plan transfers differs slightly from the process of

transferring a Child Protection Plan. It was suggested that, as much as possible, the guidance should incorporate these well-established processes. There was also a view that the process would be much easier if there is a national standard, paperwork and systems that everyone used.

### *Suggestions for improvement*

13.40 Respondents made a range of suggestions for improving the guidance. Those mentioned most frequently related to issues of information sharing, and of dealing with disagreements between managing authorities at the point of transfer:

- Guidance in this section in relation to the editing and sharing of information should be more closely aligned to the guidance on information sharing. It was also suggested that (at paragraph 11.9.20) a statement should be included to say that information may also be shared between managing authorities without the consent of parents / children for the purposes of preventing or detecting a crime.
- It was pointed out that the arrangements for transfer rely on agreement between managing authorities. However, the guidance should also consider the possibility that they may disagree.

### *Other concerns*

13.41 Respondents also expressed some concerns about the guidance in this section. The following points were noted:

- Targeted interventions provided to the child from the outgoing authority may not be available from an incoming authority. The guidance should address how this should be resolved.
- Transitions can be difficult for children, particularly for vulnerable children. Guidance should include advice to professionals to allow plenty of time for preparing for the transition, and to give particular attention to the communication needs of children and their families.

### ***Views of individual respondents***

13.42 Individual respondents were concerned about the potential cost of implementation of the Act, and about information being shared between one managing authority and another without the parents' consent. There was also a view that the procedures for transfer were unnecessary for most children.

### **Q33: Assistance in relation to Child's Plan**

13.43 Question 33 concerned paragraphs 11.10.1 – 11.10.8 of the guidance and asked: 'Is the draft guidance helpful in describing the processes and arrangements for providing assistance in relation to functions under this part

of the Act?' Table 13.4 below shows that 78% of organisational respondents and 30% of individual respondents agreed, and 22% of organisational respondents and 70% of individual respondents disagreed.

**Table 13.4: Question 33**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	12	(75%)	4	(25%)	16	(100%)
Health organisations	13	(87%)	2	(13%)	15	(100%)
Partnership bodies and joint responses	9	(64%)	5	(36%)	14	(100%)
Other national public sector bodies	3	(75%)	1	(25%)	4	(100%)
Third sector organisations	14	(93%)	1	(7%)	15	(100%)
Professional groups	6	(67%)	3	(33%)	9	(100%)
Other organisational respondents	3	(75%)	1	(25%)	4	(100%)
<b>Total organisations</b>	<b>60</b>	<b>(78%)</b>	<b>17</b>	<b>(22%)</b>	<b>77</b>	<b>(100%)</b>
Individual respondents	6	(30%)	14	(70%)	20	(100%)

Percentages do not all total 100% due to rounding.

13.44 The overall pattern of agreement / disagreement was broadly similar across different organisational sectors.

13.45 Altogether, 57 respondents (52 organisations and 5 individuals) commented at Question 33.

### ***Aspects of the guidance respondents found helpful***

13.46 Organisational respondents found it helpful that the guidance acknowledged the challenge of achieving a balance between confidentiality and sharing of information.

### ***Aspects of the guidance that were less helpful / required clarification***

#### ***Declining a request for assistance***

13.47 The main point made by respondents in their comments at Question 33 concerned a request for additional information, or specific examples, to illustrate the two points made at paragraph 11.10.2 (the circumstances in which a relevant authority or listed authority may decline a request for assistance from the Named Person or Lead Professional).

13.48 However, there was also a more general view that, while the guidance was reasonably clear about duties related to information sharing and confidentiality, it was less clear about providing advice and assistance.

13.49 The point was made that the requirement to provide clear reasoning for refusing a request for assistance does not appear in the Act or the Explanatory Notes, but is only mentioned in the draft guidance. Therefore, the status of this requirement is unclear. Respondents also commented that it

was unclear what action would / could be taken if a request for assistance / information is not complied with, and whether there was scope for a Named Person or Lead Professional (or parents) to appeal or challenge a decision not to provide assistance. Respondents wanted this to be specified in the guidance.

#### *Information sharing / confidentiality*

- 13.50 Some respondents thought that the guidance was too complex in relation to information sharing, and written in a way that was difficult to navigate. Specifically, there were several comments that paragraph 11.10.3 on the breach of duty of confidentiality was far too long, and should be bulleted, or simply condensed.
- 13.51 There was also a view that, since information sharing was covered earlier in the document, including it in this section as well, has 'muddied the guidance'. It was thought that the guidance did not address the complexities of how and when to say no to a request for information. There was also a request for more consistent wording regarding the 'test for disclosure' of information, in line with earlier sections of the guidance.
- 13.52 The point was also made that the DPA also allows information to be shared for the purposes of preventing or detecting a crime. There was also a suggestion that training should be made available widely to practitioners across all sectors (including the third sector) so that they are equipped with the knowledge they need to participate in the process of developing, managing and reviewing a Child's Plan with due regard to existing legislation.

#### **Wider issues**

- 13.53 Respondents made the following points related to the issue of providing assistance to Named Persons or Lead Professionals when requested:
- Allied Health Profession service providers currently do not have sufficient capacity to act as Lead Professional, or to deliver the shift in resources that would be required to bring about the changes necessary to focus on early intervention / prevention.
  - While this section sets out the requirements of authorities to comply with requests from a Named Person or Lead Professional, there is no guidance about what happens if parents approach a Named Person or Lead Professional to request a specific service and this is refused.
  - The role or obligations of the third sector are unclear, particularly when they may be carrying out duties on behalf of a local authority.

### ***Views of individual respondents***

- 13.54 Individual respondents commented on the language in this section of the guidance (suggesting it would be clearer if it 'were written in plain English'), and emphasised again the fundamental right of parents to look after the wellbeing of their children, and their views that the proposed arrangements were unnecessary for most children, intrusive and a poor use of public funds.
- 13.55 There was also a suggestion that, while the focus in the guidance on the DPA was positive, this Act was seen to be rarely treated seriously.

### **Q34: Other comments about the draft Child's Plan**

- 13.56 Question 34 invited respondents to provide any other general comments about the draft Child's Plan guidance. Altogether 64 respondents (53 organisations and 11 individuals) made comments.
- 13.57 Respondents raised a wide range of issues in their comments at Question 34. Many of these repeated comments made in relation to earlier questions, and so these are not repeated here. Additional points included:
- Clarity was needed about when and how to close a Child's Plan
  - It would be helpful to have as much consistency across the country as possible in relation to the format of the Child's Plan – there were requests again for examples of completed Plans.
  - Practice guidance should include further details about staged assessment and targeted intervention.
  - It was suggested that the term 'Young Person's Plan' should be used in the guidance to refer to the 'Child's Plan' for those aged 16 and over.
  - The term 'Child's Plan' is itself confusing, as it actually refers to a planning framework including an assessment and core record. The guidance should be clearer on what now constitutes a statutory plan (LAAC / child protection, etc.).
- 13.58 On the one hand, there was concern about too many Child's Plans being created simply because the concept of wellbeing is so 'amorphous'. However, it was more common for respondents to express concern that targeted interventions (for budgetary reasons) may be identified as services at a universal level – thus there may be few statutory Child's Plans in certain areas of the country.
- 13.59 There were also numerous comments on the style and presentation of the guidance. There were calls for more concise text and consistent language, and suggestions that the detail could be included in practice guidance. Phrases like 'initiate the preparation', 'prepare', 'co-ordinate delivery of', 'review', and 'manage' were perceived to be unclear, or not always used

consistently. There were also concerns about the phrase 'as far as reasonably practicable' used in relation to seeking views of children.

### ***Views of individual respondents***

13.60 The comments of individual respondents large reiterated points they had made in response to earlier questions. Some individual respondents repeated their objections to the legislation.

13.61 Others focused more on implementation issues, and expressed the views that:

- There is a lack of capacity in the health visitor workforce to fulfil the role of Named Person.
- Parents and children must be given clear and detailed information about what is involved.
- The role of parents should be central in the process.

13.62 One individual respondent also echoed comments made by some of the organisational respondents that the guidance had not clearly explained the relationship between a Child's Plan and a Child Protection Plan. The point was made that although the latter is not a statutory plan, it is universally used in child protection practice, and so the lack of guidance on this issue could lead to confusion.



## 14 DRAFT CHILD'S PLAN ORDER

- 14.1 The last four questions in the consultation questionnaire (Questions 35–38) asked for comments about different aspects of the draft Child's Plan Order. Respondents' views in relation to these questions are set out below.

### Q35: References in the guidance to existing regulations (Q35)

- 14.2 Question 35 asked: 'Whenever possible we have referenced existing regulations to show the interaction with the new duties. Do you find this helpful?' Table 14.1 below shows that 88% of organisational respondents and 35% of individual respondents answered 'yes' to this question, and 12% of organisational respondents and 65% of individual respondents answered 'no'.

**Table 14.1: Question 35**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	14	(93%)	1	(7%)	15	(100%)
Health organisations	13	(100%)	0	(0%)	13	(100%)
Partnership bodies and joint responses	10	(67%)	5	(33%)	15	(100%)
Other national public sector bodies	5	(100%)	0	(0%)	5	(100%)
Third sector organisations	14	(93%)	1	(7%)	15	(100%)
Professional groups	9	(90%)	1	(10%)	10	(100%)
Other organisational respondents	4	(80%)	1	(20%)	5	(100%)
<b>Total organisations</b>	<b>69</b>	<b>(88%)</b>	<b>9</b>	<b>(12%)</b>	<b>78</b>	<b>(100%)</b>
Individual respondents	6	(35%)	11	(65%)	17	(100%)

Percentages do not all total 100% due to rounding.

- 14.3 Partnership bodies were less likely than other organisational respondents to answer 'yes'.
- 14.4 Altogether 44 respondents (38 organisations and 6 individuals) submitted comments in response to Question 35. Only five out of the nine organisations who answered 'no' at this question went on to explain their reasons for answering in this way. The remaining comments were from respondents who had answered 'yes'.
- 14.5 In general, respondents thought references to existing regulations in the guidance were useful and important. However, some felt that further clarification was needed. Moreover, there was a view that, although the draft Child's Plan Order had provided references to existing regulations very well, these links were 'almost completely absent' from the draft guidance.
- 14.6 The importance of understanding the links with other regulations was emphasised since 'practitioners will be used to working within existing

frameworks', and they will need to be able to build on this experience as they become familiar with the duties of the new Act.

- 14.7 While some made more general requests for further clarification about how the relevant legislation relates to the Child's Plan process, others specifically wanted clarification about the interaction between the Child's Plan and:
- Co-ordinated Support Plans
  - Regulations for looked-after children
  - Child protection and Children's Hearing procedures.
- 14.8 The point was made that Part 2 of the guidance seems to suggest that a responsible authority may need to 'make a decision' about whether a looked-after child requires a Child's Plan. However, there was a view that no such decision would need to be made, since 'any looked-after child must, by virtue of being looked after, have various wellbeing needs which cannot be met by universal services.' Thus, it was suggested that Part 2 of the guidance should be amended to clearly state that all looked-after children must have a Child's Plan.
- 14.9 There was a concern that the legislation that applied to the wellbeing of children was very complex, and there was a question about the capacity of (and time available to) Name Persons to interpret this legislation appropriately.
- 14.10 Some respondents made practical suggestions about how to improve the links to other legislation and regulations from within the draft guidance: for example, by putting in hyperlinks, or by adding footnotes to the document.

### ***Views of individual respondents***

- 14.11 In general, individual respondents did not directly address the question, and the largely reiterated their general opposition to the legislation and concerns about the guidance.
- 14.12 A small number of individual respondents did engage with the question, and these said they found the links to other regulations from the draft Child's Plan Order helpful.

### **Q36: Other people who should be consulted in the preparation of a Child's Plan**

- 14.13 Question 36 made the point that in terms of the 2014 Act, the Named Person and, as far as reasonably practicable, the child and their parents, are to be consulted on the preparation of a Child's Plan. The draft Order also set out who else should be consulted in certain circumstances. Under the Act, the responsible authority can also consult with anyone it considers appropriate in any particular case. Question 36 asked: 'Do you think any other people should

be consulted, as far as reasonably practicable, for the preparation of every plan?’

14.14 Table 14.2 below shows that 66% of organisational respondents and 24% of individual respondents answered ‘yes’, and 34% of organisational respondents and 76% of individual respondents answered ‘no’.

**Table 14.2: Question 36**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	6	(40%)	9	(60%)	15	(100%)
Health organisations	12	(86%)	2	(14%)	14	(100%)
Partnership bodies and joint responses	8	(57%)	6	(43%)	14	(100%)
Other national public sector bodies	2	(50%)	2	(50%)	4	(100%)
Third sector organisations	13	(81%)	3	(19%)	16	(100%)
Professional groups	6	(75%)	2	(25%)	8	(100%)
Other organisational respondents	4	(67%)	2	(33%)	6	(100%)
<b>Total organisations*</b>	<b>51</b>	<b>(66%)</b>	<b>26</b>	<b>(34%)</b>	<b>77</b>	<b>(100%)</b>
Individual respondents	4	(24%)	13	(76%)	17	(100%)

\* One respondent ticked both ‘yes’ and ‘no’. This response is not included in the table. Percentages do not all total 100% due to rounding.

14.15 Most organisational respondents answered ‘yes’ to this question. However, local authorities were more likely to answer ‘no’, and other national public sector bodies were divided in their views.

14.16 Altogether, 55 respondents (45 organisations and 10 individuals) made comments at Question 36.

14.17 The general view among organisational respondents was that decisions about who to consult in preparing a Child’s Plan should depend on the individual circumstances of each child. The point was made that it could take a lot of time for the Named Person to consult with a wide range of people; therefore, only the key people in the child’s life should be consulted, and these decisions should be taken flexibly, on a case-by-case basis.

14.18 However, some respondents made suggestions about others who could be contacted as a matter of course:

- GP
- Foster carers / residential staff
- Social work (for looked-after children) and the education service (for those with a CSP)
- Third sector organisations which provide care to either the child or the parent(s).

14.19 People who might be consulted, depending on the circumstances, could include:

- The child's wider network of support
- Siblings
- Victims of any crime perpetrated by the child (in the interests of restorative justice)
- The previous Named Person for the child (particularly if information received upon transition is limited)
- UK-based guardians (for international students).

14.20 Respondents also raised a number of points in relation to the question of who to consult in the preparation of a Child's Plan:

- Decisions about who else to consult should be taken after discussion with the child and parents
- Not consulting with the child and their parents in the preparation of the Plan should be only in exceptional circumstances – respondents questioned the use of the phrase: 'as far as reasonably practical'.
- There is a risk that the Child's Plan and Named Person provisions could create a situation whereby young people are exposed to increasing numbers of professionals who have access to information about their lives and experiences.

### ***Views of individual respondents***

14.21 In general, individual respondents thought that decisions about who else to consult regarding the preparation of a Child's Plan should be taken following discussion with the child's parents. Individual respondents thought that information about the child should not be shared with other individuals / organisations without consent (unless there is a significant risk of harm to the child), and they wanted the guidance to include safeguards to protect the privacy of families.

14.22 However, some individual respondents suggested other people who could be consulted, including: a child's 'case review officer', and other family members involved in the child's care.

### **Q37: Copies of the Child's Plan**

14.23 Question 37 made the point that copies of the Child's Plan should be provided to persons specified in the draft Child's Plan Order, except in certain circumstances, which are set out in Article 7 (Part 3) of the draft Order. The question asked: 'Does this article meet the intention to ensure that others are not placed at risk of harm as a consequence of copies of the plan being provided? If no, please provide details including what you think should be changed.'

14.24 Table 14.3 below shows that 91% of organisations and 19% of individuals said ‘yes’ in response to this question, and 9% of organisations and 81% of individuals said ‘no’.

**Table 14.3: Question 37**

Respondent type	Yes		No		Total	
	n	%	n	%	n	%
Local authorities	14	(100%)	0	(0%)	14	(100%)
Health organisations	12	(100%)	0	(0%)	12	(100%)
Partnership bodies and joint responses	11	(85%)	2	(15%)	13	(100%)
Other national public sector bodies	4	(80%)	1	(20%)	5	(100%)
Third sector organisations	12	(92%)	1	(8%)	13	(100%)
Professional groups	6	(100%)	0	(0%)	6	(100%)
Other organisational respondents	4	(67%)	2	(33%)	6	(100%)
<b>Total organisations</b>	<b>63</b>	<b>(91%)</b>	<b>6</b>	<b>(9%)</b>	<b>69</b>	<b>(100%)</b>
Individual respondents	3	(19%)	13	(81%)	16	(100%)

Percentages do not all total 100% due to rounding.

14.25 Altogether, 34 respondents (27 organisations and 7 individuals) made comments in response to this question.

14.26 Points raised by respondents included the following. Most of these points were raised by fewer than five respondents.

- Services involved in the delivery of the Plan should receive a copy of it – or at least relevant sections of it.
- The most complex cases are likely to present the greatest difficulties in deciding what information can be shared without consent, and with whom.
- Copies of the Child’s Plan should only be provided to others on a ‘need to know basis’.
- There should be robust governance processes in place to ensure that information is not shared inappropriately. There was a suggestion that current child protection / Children’s Hearing processes could be used as a model.
- If a decision is taken to restrict distribution of the Plan, this decision should be regularly reviewed.
- There may be international regulations which need to be considered, for example, in the case of a child who may be at risk of being abducted and taken abroad by a non-resident parent.
- Inclusion of the child’s address in the Child’s Plan may put the child at risk in cases where there has been domestic abuse and the parents are separated. Although the Order would allow the abusive parent not to receive a copy of the Plan, it may be the case that the child would share his/her own copy with that parent. It was suggested that, in cases where

domestic abuse is an issue, any information which could identify the family residence should be omitted from shared copies of the Plan.

14.27 There was also concerns about the requirement to provide a copy of the Child's Plan to the child's parents in the case of over-16s who may no longer be living with (or in contact with) their parents.

### ***Views of individual respondents***

14.28 Individual respondents often simply reiterated their objections to the provisions of the Act and their beliefs that the legislation should be 'scrapped'. However, some additional points were that:

- The guidance should set out in exactly what circumstances a parent or child can legitimately be excluded from discussions about a child's wellbeing.
- There is a conflict of interest in that the authority that makes the decision to exclude the parent(s) from the circulation list for the Plan may be the same authority who is the employer of the Named Person.

### **Q38: Other general comments about the draft Child's Plan Order**

14.29 Question 38 was an open question which invited any other general comments about the draft Child's Plan Order. Comments from individual respondents largely covered the same issues discussed in Chapter 3 of this report, and so they are not repeated here.

14.30 Comments from organisations generally repeated or reiterated earlier comments made in relation to different aspects of the guidance. Again, these are not repeated here. Additional points made by organisational respondents at Question 38 included the following:

- Chronologies should be given greater prominence in the guidance – it was suggested that the guidance should be cross-referenced to 'GIRFEC Practice Guidance 8: Chronologies', which should be updated if necessary. The point was made that chronologies have been identified as very important in many Significant Case Reviews, in HMle reports on child protection and by the Care Inspectorate.
- The guidance should more clearly articulate that the protection of children is fundamental to the overall GIRFEC approach to wellbeing. It was thought there was insufficient emphasis on vulnerability, risk and child protection, and it was suggested that existing multi-agency arrangements for identifying, assessing, responding to and managing risk should be acknowledged more fully in the guidance. There was a concern that the guidance could lead practitioners to mistakenly believe that the new duties replace existing practices which are working well to protect children.

- The guidance should be clearer about timescales for different aspects of the process.
- It was suggested that it was unnecessary to state the layout of the Child's Plan in secondary legislation. The length and complexity of the information required could potentially result in delays in a targeted intervention getting started. Instead, it was suggested that a standard proforma of a Child's Plan could be provided for all responsible authorities to use. This option would allow the targeted intervention to happen more quickly, rather than professionals waiting until all compulsory sections of the Child's Plan are completed before beginning the intervention.
- It was thought that a 'legal understanding' would be required to interpret / understand the draft Child's Order. There was concern about the cross-referencing from the guidance to the draft Order, which was thought to be confusing and open to misinterpretation, and thus potentially able to be challenged in court.

## 15 CONCLUDING REMARKS

- 15.1 Respondents across all organisational sectors were generally supportive of the Act. They particularly welcomed the strong focus on the needs of the child, and the focus on hearing the child's 'voice'.
- 15.2 A majority of the organisational respondents (55%) agreed (at Question 1) that the guidance provided a clear interpretation of the Act to support implementation of the duties. Most of the organisations that would be directly involved in implementing the legislation agreed, while a majority of other types of organisations disagreed. Levels of agreement in relation to the other questions in the consultation varied from just under half (47%) to around nine out of ten (91%) of organisational respondents.
- 15.3 Irrespective of whether they agreed or disagreed in response to individual questions, respondents often requested further clarification about key issues including: the concept of 'wellbeing'; information sharing; working with particular subgroups of children and young people (e.g. those with disabilities); the role of the Named Person; the role of the Lead Professional; and the relationship between the guidance and other extant legislation, systems and procedures.
- 15.4 Following the submission of this analytical report, the Scottish Government will consider the views put forward, both through the formal consultation and through meetings and other engagement with stakeholders. The Scottish Government will issue a formal response to the key issues raised, making clear where any changes have been made to the draft Orders, and outlining other actions which have been or will be taken.
- 15.5 The present report and the Scottish Government response will be made available on the Scottish Government website and on the citizen space website, and will be published at the same time as the finalised Orders are laid before Parliament.



## ANNEX 1: CONSULTATION QUESTIONS

Consultation question		Number of responses received	% of total 282 responses
Q1	Overall, do you think that the draft guidance gives a clear interpretation of the Act to support organisations' implementation of the duties? (Yes / No)	158	56%
	Please provide details.	146	52%
Q2	Do you think the draft guidance on wellbeing provides clarity about what wellbeing means in the context of the Act? (Yes / No)	142	50%
	What is helpful and / or what do you think could be clearer?	152	54%
Q3	Are the explanations of the eight wellbeing indicators helpful? (2.5) (Yes / No)	137	49%
	What is helpful and / or what do you think could be clearer?	123	44%
Q4	Are the descriptions and examples of wellbeing concerns sufficiently clear and helpful? (2.7) (Yes / No)	132	47%
	What is helpful and / or what do you think could be clearer?	125	44%
Q5	Please provide any other general comments about the draft guidance on wellbeing.	132	47%
Q6	Is the draft guidance clear on the organisational arrangements which are to be put in place by the service provider to support the functions of the Named Person? (4.1.3 – 4.1.4) (Yes / No)	125	44%
	What is helpful and / or what do you think could be clearer?	110	39%
Q7	The Named Person Order and the draft guidance in support of this relate to training, qualifications, experience and position of who can be a Named Person. (Named Person Order and 4.1.5 – 4.1.17).	131	46%
	Are they sufficient to promote reliability in the quality of the Named Person service while supporting the flexibility to ensure that organisations can provide the service universally and consistently? (Yes / No)		
	Do they provide clarity? (Yes / No)	127	45%
	Please give reasons for your answers, including if you think they should be changed.	141	50%
Q8	Is the level of detail provided on the delivery of the Named Person functions within the draft guidance appropriate to guide service providers in the provision of the service? (4.1.19 – 4.1.27) (Yes / No)	123	44%
	What is helpful and / or what do you think could be clearer?	110	39%
Q9	The draft guidance outlines how arrangements for making the Named Person service available during school holiday periods and other absences should be put in place. Do you agree that this provides sufficient clarity while allowing local flexibility? (4.1.30 – 4.1.32) (Yes / No)	119	42%
	What is helpful and / or what do you think could be clearer?	101	36%

<b>Consultation question</b>		<b>Number of responses received</b>	<b>% of total 282 responses</b>
Q10	This section of the draft guidance outlines arrangements for making the Named Person service available for pre-school children. Do you think it provides clarity? (Yes / No)	109	39%
	What is helpful and / or what do you think could be clearer?	76	27%
Q11	This section of the draft guidance outlines arrangements for making the Named Person service available for children who are not pre-school children. Do you think it provides clarity? (6.1.1 – 6.1.8) (Yes / No)	108	38%
	What is helpful and / or what do you think could be clearer?	73	26%
Q12	Does the draft guidance make clear arrangements for providing the Named Person service for children who leave school before their 18 <sup>th</sup> birthday? (6.1.9 – 6.1.25) (Yes / No)	116	41%
	What is helpful and / or what do you think could be clearer?	95	34%
Q13	Does the draft guidance make clear arrangements for providing the Named Person service for children of Gypsy/travellers? (6.1.26 – 6.1.31) (Yes / No)	97	34%
	What is helpful and / or what do you think could be clearer?	72	26%
Q14	Does the draft guidance make clear arrangements for providing the Named Person service for children who are home educated? (6.1.32 – 6.1.39) (Yes / No)	100	35%
	What is helpful and / or what do you think could be clearer?	65	23%
Q15	Does the draft guidance make clear arrangements for providing the Named Person service for those families with more than one Named Person? (6.1.41 – 6.1.43) (Yes / No)	105	37%
	What is helpful and / or what do you think could be clearer?	69	24%
Q16	Does the draft guidance make clear the requirements and expectations in relation to communicating information about the Named Person service and the Named Person? (Yes / No)	115	41%
	What is helpful and / or what do you think could be clearer?	81	29%
Q17	Does the draft guidance make clear the arrangements which should be in place for service providers or relevant authorities to help a Named Person? (9.1.1 – 9.1.8) (Yes / No)	115	41%
	What is helpful and / or what do you think could be clearer?	87	31%
Q18	Is the draft guidance on these sections clear on requirements in relation to consideration and sharing of relevant and proportionate information when there are wellbeing concerns? (Yes / No)	122	43%
	What is helpful and / or what do you think could be clearer?	114	40%
Q19	Does the draft guidance make clear the arrangements and processes that authorities will need to put in place to facilitate and support the consideration and sharing of relevant and proportionate information? (Yes / No)	111	39%
	What is helpful and / or what do you think could be clearer?	84	30%

<b>Consultation question</b>		<b>Number of responses received</b>	<b>% of total 282 responses</b>
Q20	Does the draft guidance make clear that the sharing of relevant and proportionate information under this Act must meet the requirements of the Data Protection Act 1998 and the European Convention of Human Rights? (Yes / No)	114	40%
	What is helpful and / or what do you think could be clearer?	75	27%
Q21	Does the draft guidance make clear the arrangements for managing and sharing information when duties of confidentiality are a consideration? (10.2.14 – 10.2.16 and 10.3.10 – 10.3.13) (Yes / No)	114	40%
	What is helpful and / or what do you think could be clearer?	101	36%
Q22	Are the arrangements set out for considering the views of the child clear? (10.3.3 – 10.3.4) (Yes / No)	120	43%
	What is helpful and / or what do you think could be clearer?	93	33%
Q23	Please provide any other general comments about the draft guidance on the Named Person service, including the information sharing sections?	181	64%
Q24	Please provide any other general comments about the draft order on the Named Person.	57	20%
Q25	Is the draft guidance clear about the definition and explanation of what constitutes a 'targeted intervention'? (11.2.4. – 11.2.5) (Yes / No)	116	41%
	What is helpful and / or what do you think could be clearer?	105	37%
Q26	Are the arrangements for seeking the views of the child, parents and others during consideration of the need for a Child's Plan set out clearly in the draft guidance? (11.2.7 – 11.2.12) (Yes / No)	115	41%
	What is helpful and / or what do you think could be clearer?	88	31%
Q27	Do you agree that the content of the plan, as set out in the Schedule to the draft order and described further in the draft guidance is clear and covers the full range of likely circumstances? (11.3.1. – 11.3.9 and draft Child's Plan Order) (Yes / No)	110	39%
	What is helpful and / or what do you think could be clearer?	91	32%
Q28	Are the arrangements and processes set out in the draft guidance for preparing a child's plan clear? (11.4.1 – 11.4.6) (Yes / No)	103	37%
	What is helpful and / or what do you think could be clearer?	79	28%
Q29	Does the draft guidance give clear support on how the child's plan and the co-ordinated support plan should be integrated? (11.4.7 – 11.4.10) (Yes / No)	107	38%
	What is helpful and / or what do you think could be clearer?	74	26%

<b>Consultation question</b>		<b>Number of responses received</b>	<b>% of total 282 responses</b>
Q30	Does the draft guidance make clear the different roles of the responsible, relevant, directing and managing authorities [in preparing a child's plan]? (Yes / No)	102	36%
	What is helpful and / or what do you think could be clearer?	63	22%
Q31	Does the draft guidance make clear the processes and arrangements for managing the child's plan? (11.8.1 – 11.8.13) (Yes / No)	101	36%
	What is helpful and / or what do you think could be clearer?	76	27%
Q32	Does the draft guidance make clear the arrangements for transferring management of a child's plan? (11.9.1 – 11.9.21) (Yes / No)	99	35%
	What is helpful and / or what do you think could be clearer?	48	17%
Q33	Is the draft guidance helpful in describing the processes and arrangements for providing assistance in relation to functions under this part of the Act? (11.10.1 – 11.10.8) (Yes / No)	97	34%
	What is helpful and / or what do you think could be clearer?	57	20%
Q34	Please provide any other general comments about the draft Child's Plan guidance.	64	23%
Q35	Whenever possible we have referenced existing regulations to show the interaction with the new duties. Do you find this helpful? (Yes / No)	95	34%
	Please provide any comments on this approach.	44	16%
Q36	In terms of the 2014 Act, the Named Person, and, as far as reasonably practicable, the child and their parents, are to be consulted on the preparation of a child's plan. The draft Order sets out who else should be consulted in certain circumstances. Under the Act, the responsible authority can also consult with anyone it considers appropriate in any particular case. Do you think any other people should be consulted, as far as reasonably practicable, for the preparation of every plan? (Yes / No)	95	34%
	Please provide details including who and why.	55	20%
Q37	Copies of the child's plan should be provided to persons specified in the draft order, except in certain circumstances. This is set out in article 7 of the draft Order. Does this article meet the intention to ensure that others are not placed at risk of harm as a consequence of copies of the plan being provided? (Yes / No)	85	30%
	If no, please provide details including what you think should be changed.	34	12%
Q38	Please provide any other general comments about the draft Child's Plan Order.	44	16%

## **ANNEX 2: ORGANISATIONAL RESPONDENTS**

### **Third sector organisations (53)**

- Aberlour – Scotland's Children's Charity
- Aberlour Childcare Trust (Aberlour Futures), multi-disciplinary trainers
- Action for Sick Children Scotland
- Barnardo's Scotland
- Camphill Scotland
- Capability Scotland
- Care and Learning Alliance
- Carers Trust Scotland
- Children 1st
- Children's Hospice Association Scotland
- Children in Scotland
- Children's Hospice Association Scotland / Together for Short Lives
- Coalition of Care and Support Providers in Scotland
- Dalkeith Midlothian Kinship Carers SCIO
- Down's Syndrome Scotland
- Early Years Scotland
- East Park
- Edinburgh Young Carers Project
- Edinburgh Young People's Service
- Enable Scotland
- Families Need Fathers
- Families Outside
- Family Education Trust
- for Scotland's Disabled Children
- Glasgow Council for the Voluntary Sector – Everyone's Child
- Health and Social Care Alliance Scotland (the ALLIANCE)
- Highland Children's Forum
- Home-Start UK
- Includem
- International Play Association
- LGBT Youth Scotland
- Mindroom
- National Deaf Children's Society
- National Parent Forum of Scotland
- NSPCC Scotland
- Parenting across Scotland
- Play Scotland
- Quarriers
- Rape Crisis Scotland
- Schoolhouse Home Education Association

- Scottish Book Trust
- The Scottish Centre for Children with Motor Impairments
- Scottish Out of School Care Network
- Scottish Parent Teacher Council
- Scottish Women's Aid
- Scottish Young Carers Services Alliance
- Talking Mats
- Together (Scottish Alliance for Children's Rights)
- Tymes Trust
- WAVE Trust
- Who Cares? Scotland
- Women's Rape and Sexual Abuse Centre Dundee & Angus
- Your Voice (Scotland) Limited

### **Health organisations (19)**

- Allied Health Profession Directors and Allied Health Professions Children and Young People Forum
- Child Health Commissioner NHS Borders
- Child Protection Nursing Midwives and Allied Health Professionals Scotland
- Childsmile
- Healthcare Improvement Scotland
- Managed Clinical Network for Children with Exceptional Needs and NHS Lothian
- National Services Division, National Services Scotland
- NHS 24
- NHS Ayrshire and Arran
- NHS Education for Scotland
- NHS Fife
- NHS Forth Valley, Speech and Language Therapy Department
- NHS Greater Glasgow and Clyde, Child Protection Unit
- NHS Greater Glasgow and Clyde, Speech and Language Therapy Department
- NHS Health Scotland
- NHS Lanarkshire
- NHS Lothian
- NHS Tayside
- Scottish Ambulance Service

### **Professional groups and forums, trade unions, and regulatory bodies (18)**

- Association of Directors of Education
- Association of Headteachers and Deputies in Scotland
- Association of Support for Learning Officers
- British Medical Association
- British Psychological Society
- COSCA (Counselling & Psychotherapy in Scotland)
- General Medical Council

- Royal College of Midwives
- Royal College of Nursing
- Royal College of Paediatrics and Child Health
- Royal College of Speech and Language Therapists
- Scottish Association of Social Work (part of BASW)
- Scottish Guidance Association
- Scottish Secondary Teachers Association
- The Educational Institute of Scotland
- The Law Society of Scotland
- Unite the Health Sector
- Voice the Union

#### **Local authorities (18)**

- Aberdeen City Council, Education and Children's Services
- Aberdeenshire Council
- Angus Council
- City of Edinburgh Council, Children & Families, Area Coordinators and Colleagues
- Dumfries and Galloway Children's Services – GIRFEC Group and Named Persons
- Dundee City Council
- East Dumbartonshire Education
- East Lothian Council
- East Renfrewshire Council
- Fife Council
- Glasgow City Council Education Services
- Highland Council
- Moray Council
- North Lanarkshire Council
- Perth and Kinross Council
- Scottish Borders Council
- South Ayrshire GIRFEC Implementation Group
- West Lothian Council

#### **Partnership bodies and joint responses (18)**

- Aberdeen City Child Protection Committee
- Aberdeen City SHCP – Healthy Outcomes Group – Chair
- Argyll and Bute Community Planning Partnership
- Early and Effective Interventions Champions Group, Centre for Youth and Criminal Justice, University of Strathclyde
- East Ayrshire Council on behalf of Children and Young People's Multi-Agency Group
- Falkirk Children's Commission
- Glasgow City Council (Social Work and Education Services) and NHS Greater Glasgow and Clyde
- Inverclyde Health and Social Care Partnership
- NHS Orkney and Orkney Islands Council
- North Ayrshire Child Protection Committee

- North Ayrshire Children's Services Strategic Partnership
- Perth and Kinross Child Protection Committee
- Reintegration and Transitions Champions Group, Centre for Youth and Criminal Justice, University of Strathclyde
- Renfrewshire Children's Services Partnership
- Scottish Child Protection Committee Chairs Forum
- South Lanarkshire Child Protection Committee
- South Lanarkshire Council / NHS Lanarkshire – Children's Services Multi-Agency Partnership.
- West Dunbartonshire Health and Social Care Partnership

**Other national public sector bodies (7)**

- Care Inspectorate
- Colleges Scotland
- Information Commissioner's Office
- Mental Welfare Commission for Scotland
- Police Scotland
- Scottish Children's Reporter Administration / Children's Hearings Scotland
- Skills Development Scotland

**Other organisational respondents (16)**

- The 89 Human Rights Forum
- Centre for Excellence for Looked After Children in Scotland (CELCIS)
- Children's Parliament
- The Christian Institute
- Church of Scotland
- Clan Childlaw Ltd
- Free Church of Scotland
- Free Church of Scotland – Public Questions, Religion and Morals Committee
- Peterhead Gospel Trust
- Rhu and Shandon Community Council
- Scotlandtherapy
- Scottish Council of Independent Schools
- Scottish Government Disabled Children and Young People Advisory Group
- Scottish Youth Parliament
- United Free Church of Scotland – Church and Society Committee
- WithScotland





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

ISBN: 978-1-78544-499-9 (web only)

Published by The Scottish Government, June 2015

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS52273 (06/15)

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