

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

Respondent Information Form (RIF)



Please Note this form **must** be returned with your response to ensure that we handle your response appropriately.

1. Name/Organisation Name

Colleges Scotland

Title Mr Ms Mrs Miss Dr

Please tick as appropriate (if completing electronically, double click on box and select default value as 'checked')

Surname

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3. Permissions - I am responding as...

Individual

/ Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

Yes No

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

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

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

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

or

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

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

Please tick as appropriate

Yes **No**

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

Please tick as appropriate **Yes** **No**

Consultation questions

General

1) Overall, do you think that the draft guidance gives a clear interpretation of the Act to support organisations' implementation of the duties?

Yes No

Please provide details:

However, there is confusion over the terminology used in the guidance. While the terms ~~managing authority~~ ~~directing authority~~ ~~relevant authority~~ and ~~responsible authority~~ are defined in the guidance, the potential for confusion and misunderstanding remains high.

The guidance does well to clarify the intentions of these sections of the Act and to relate them to the concepts of safeguarding and wellbeing with which users should be familiar.

Part 18, Section 96 - Wellbeing

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

Yes No

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

The guidance is consistent with other guidance on wellbeing with which users might be familiar (e.g. Getting it Right for Every Child (GIRFEC)). The reiteration of the SHANARRI principles is helpful as it makes this guidance self-contained.

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

Yes No

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

As in the response to question 2, the explanations provided are in line with established practice and understanding. For new users of these concepts, the guidance provides sufficient clarity without having to refer to other material.

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

Yes No

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

It would be useful if the examples included the duty of other practitioners (e.g. those referred to in para 2.6.4) in relation to those working in a post-16 education provider.

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

None.

Part 4 - Named Person

Section 19 . Named Person Service

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

Yes No

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

From a college perspective, the guidance provides clarity that the responsibility for the provision of the Named Person service lies elsewhere other than with the college. It is also clear that a Named Person service provider may build partnerships with colleges and other service providers.

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

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

Yes No

Do they provide clarity?

Yes No

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

NB: There is an error in the second last line of para 4.1.6 . yourqinstead of youngc.

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

Yes No

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

The link to the GIRFEC National Practice Model is very helpful.

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

Yes No

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

This section of the guidance appears to be straightforward.

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

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

Yes No

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

N/A.

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

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

Yes No

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

N/A.

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

Yes No

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

There is a presumption that children aged 15, 16 or 17 who attend college should not have any significant requirements for a Named Person service. However, it will be essential that college support services are provided with information from the Named Person service provider to enable them to effectively communicate any concerns that may arise. This is covered in Section 24 however it could usefully be signposted in this part of the guidance.

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

Yes No

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

N/A.

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

Yes No

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

N/A.

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

Yes No

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

The guidance appears to be straightforward.

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

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

Yes No

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

From a college perspective, this is a welcomed aspect of the guidance and appears to provide clear and appropriate direction.

Section 25 . Duty to help the Named Person

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

Yes No

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

Section 9.1.4 appears to lack any reference to the reasonableness (or otherwise) of a request for help, or of considerations of affordability. It would be useful if the guidance referenced some means of ensuring that requests for help are screened prior to the application for help or information being made.

Sections 23, 26 and 27 . Information sharing

General

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

Yes No

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

The guidance ensures that there are clear checks and boundaries on information sharing (e.g. duty of confidentiality, European Convention of Human Rights and Data Protection Act). The primacy of concern for wellbeing is also preserved in the guidance.

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

Yes No

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

It is evident that Named Person service providers may often have to make a judgement call where the rights of a child to privacy and its parents to privacy will be balanced against consideration for the present and future wellbeing of the child. It would be useful if case law and good practice was developed further in this aspect of the guidance.

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

Yes No

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

The inclusion of specific appendix materials on ECHR and Data Protection Act enhance this aspect of the guidance.

Section 23/Section 26

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

Yes No

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

As in the response to question 20.

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

Yes No

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

The set of tests appear to be comprehensive.

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

N/A.

Draft Named Person Order

See question 7 above; and

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

N/A.

Part 5 . Child's Plan

Section 33 - Child's Plan requirement

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

Yes No

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

The guidance provides clarity to the notion that a targeted intervention will be more than a universal service provided for particular groups (e.g. support for literacy development).

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

Yes No

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

N/A.

Section 34 . Content of a Child's Plan

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

Yes No

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

N/A.

Section 35 . Preparation of a Child's Plan

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

Yes No

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

In paragraph 11.4.5 it would be helpful to include guidance on the process for creating a Child's Plan for a child aged 16 or 17 who has left school and is attending college.

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

Yes No

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

N/A.

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

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

Yes No

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

The guidance provides clear definitions on the different roles. It would be useful however if the guidance provided a direct link to these definition for easy reference by the user to avoid any confusion and misunderstanding.

Section 39 . Child's Plan: management

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

Yes No

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

N/A.

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

Yes No

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

N/A.

Section 40 . Assistance in relation to Child's Plan

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

Yes No

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

As in the response to question 17, with the request for help being screened prior to the application for help or information being made.

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

N/A.

Draft Child's Plan Order

See question 26 above, and:

Part 1, Article 2 - General

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

Yes No

Please provide any comments on this approach:

Having this assists the user to manage the sometimes overlapping requirements of various Acts (e.g. Child's Plan and Co-ordinated Support Plan).

Part 3, Article 6 . Preparation and content of a child's plan

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

Yes No

Please provide details, including who and why.

N/A.

Part 3, Article 7 . Copies of a child's plan

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

Yes No

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

N/A.

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

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

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or

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