



CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014:

**The Scottish Government Response to the
Consultation on the Draft Statutory Guidance
for Parts 4, 5 & 18 (Section 96)**



The Scottish Government Response to the ‘Consultation on the Draft Statutory Guidance for Parts 4, 5 & 18 (Section 96) of the Children and Young People (Scotland) Act 2014’

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Ministerial Foreword

This Government's vision for children and young people is clear: We want Scotland to be the best place in the world for them to grow up. A place where rights are respected and where children can access all the opportunities and support they need, when they need it.

We all have a role to play in making this happen – as families, as communities, as a society. We want to ensure that services are designed and available to children and families to give them the support they need in the right way, at the right time. For many, that kind of help may not be necessary, though services should always be ready to provide it if appropriate. For some, if children and families get the right support early enough, concerns may not become crises – and for a few, crises will not become tragedies.



Our approach to improving the services that support children and young people is based on the principles of *Getting It Right for Every Child*. The Children and Young People (Scotland) Act 2014¹, passed by our Parliament in February last year, sets out a new legal framework within which services will work together to support children, young people and families. Key elements of the legislation will be the introduction of the Named Person service and the Child's Plan. We expect to commence these duties in the Act on 31 August 2016, and as part of the preparation for this, draft guidance explaining how local authorities, health boards and others should be carrying out the duties was prepared and presented for full public consultation in February this year.

The consultation closed this May and I am pleased now to present the Scottish Government's response to the consultation. It not only sets out how we will revise the guidance (final draft will be issued by November this year) but, extending the theme of working collectively with stakeholders and parent bodies to work through the challenges of preparing for August next year, it also details the other activities underway to support implementation.

I wish to thank Griesbach & Associates for their work in providing such a useful analysis of the responses to this consultation, and all those who contributed their views to the consultation and who continue to work with us on ensuring that the guidance, and all our support materials, meet the needs of strategic leaders, practitioners and the wider public alike.

AILEEN CAMPBELL MSP
MINISTER FOR CHILDREN AND YOUNG PEOPLE

¹ Referred to as 'the Act' throughout this document

1 Introduction

1.1 On 6 February 2015 the Scottish Government launched the 'Consultation on the draft Statutory Guidance for Parts 4, 5 and 18 (Section 96) and related draft orders of the Children and Young People (Scotland) Act 2014. The consultation ran for 12 weeks and closed on 1st of May 2015.

1.2 An analysis report outlining the findings of the consultation was published on the Scottish Government website on 26 June 2015². This Scottish Government response sets out how Scottish Ministers have considered the findings of the consultation exercise, provides an update on the development of practice materials to support implementation and sets out the timescales for implementation of Part 4, 5 and 18 (Section 96) of the Act.

² <http://www.gov.scot/Publications/2015/06/9933>

2 Background

2.1 GIRFEC is the national approach to improving the wellbeing of children and young people in Scotland which:

- puts the best interests of the child or young person at the heart of decision making;
- takes an holistic approach to the wellbeing of a child;
- builds on strengths and capacities of children, young people and their families to improve wellbeing;
- advocates preventative work and early intervention to support children, young people and their families, and, wherever possible to reduce the need for statutory interventions.

2.2 The GIRFEC approach has been tested and developed across Scotland over a number of years. This has built on a period of evolution in children's services towards more integrated, child-centred design and delivery. The role of the Named Person was devised following feedback from parents in Highland Region during the GIRFEC Pathfinder between 2006 -2009. Parents had said: they wanted a single contact point to go to for advice, help and support; they did not want this to be a faceless stranger; they did not want to have to repeat their story to several different officials or attend several different meetings to say the same thing. Central to the project were common procedures and processes for sharing concerns about a child, recording information, and constructing and implementing a plan around any support needed.

2.3 The pathfinder brought significant improvements to children and young people and their families, reducing the need for statutory intervention in children's and families' lives. At the same time, it delivered improvements for the services working with children and families. An independent evaluation of the Pathfinder showed 75% time saving for meetings involving professionals; 50% reduction in social work caseload; and consistent fall in offence referrals to the Children's Reporter. The evaluation also showed parents and families welcomed the approach and understood better why and how help was to be delivered.

2.4 The Children and Young People (Scotland) Act 2014, passed by Parliament in February last year, sets out a new legal framework within which services will work together to support children, young people and families. A key element of the legislation will be the introduction of the Named Person service and the Child's Plan. These duties in the Act will be commenced on 31 August 2016, and as part of the preparation, draft guidance explaining how local authorities, health boards and others should be carrying out the duties was drafted and presented for full public consultation.

2.5 To further support the consultation the Scottish Government held three regional events in Glasgow, Perth and Edinburgh which sought views on the guidance from those who will have statutory duties under the Act. The events were attended by nearly 500 representatives from different organisations, including Local authorities, Health, third sector and the Police. Engagement has continued beyond the formal consultation period and is on-going as we approach implementation of the GIRFEC provisions.

3 Key Findings

3.1 In total 282 written responses to the consultation were received. These written responses were independently analysed by Griesbach & Associates and the main findings are listed below. The Scottish Government is grateful for the time that individuals and organisations have taken to consider and provide views on the statutory guidance and draft Orders.

Scottish Ministers have considered the views put forward through the formal consultation and we have provided a response on their behalf. The substance of a number of respondents' comments were similar and those are addressed in this document.

3.2 The main findings were as follows:

- Respondents across all organisational sectors were generally supportive of the Act. They particularly welcomed the strong focus on the needs of the child, and on how the guidance acknowledged the need for the views of the child to be heard. Many 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.
- 55% of the organisational respondents agreed that the guidance provided a clear interpretation of the Act to support implementation of the duties.
- There were calls for use of simpler language, better definitions of key concepts and illustrative practice related examples.
- One of the key themes running through the responses was the need to develop detailed practice materials to support organisations and practitioners to implement locally with national consistency. Individual organisations asked for examples on how GIRFEC would work for specific groups of children and young people.
- Some expressed a need for clarity on:
 - provisions related to information sharing.
 - the role of the Named Person and the relationship with the Lead Professional when there is a Child's Plan.
 - 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 legislation, policy and procedures related to child protection.
- Complaints procedures and processes for dispute resolution needed to be included in the guidance.
- 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.

4 The Scottish Government Response

4.1 In response to the key findings, a programme of engagement is on-going with stakeholder groups representing community planning partnerships, professional bodies, third sector organisations and parents, to take forward a co-production approach to revising the guidance and draft Orders. The guidance and draft Orders will be ready for re-issue in November 2015.

4.2 The key issues being addressed in revising the Statutory Guidance are set out in the section below.

Introduction to the statutory guidance

4.3 The Introduction to the statutory guidance will be revised to ensure greater clarity about the primary purpose of the guidance, which is to support those with statutory responsibilities to discharge their duties under the Act.

The introductory section will make clear that the GIRFEC approach:

- respects the continuing primary role and responsibilities of parents for bringing up their children
- supports and promotes children's and young people's rights, and
- works in partnership, wherever possible, with children, young people and parents, statutory and third sector organisations to support, promote and safeguard wellbeing.

4.4 The key elements and the principles which underpin the GIRFEC approach will be further clarified and threaded through the guidance to aid understanding and to further promote a consistent approach to implementation. It will also be clarified that Parts 4 and 5 of the Act do not replace existing law applying to children and families.

Part 18, Section 96 – Wellbeing

4.5 The wellbeing section of the statutory guidance will be restructured to provide a clearer description of how wellbeing should be interpreted across the Act as a whole. The detail of how wellbeing relates to specific sections of the Act will be located within those sections to which it applies for ease of understanding. It will highlight the importance of considering wellbeing in context, respecting children and families, culture, values and beliefs. The relationship between the use of the terms 'wellbeing' and 'welfare' will be further described. Practice materials will be developed to support the practicable applications of wellbeing.

Part 4 – Named Person

Named Person service and functions

4.6 This section will be revised to emphasise that the duties fall on the organisation providing the Named Person service and not on the individual Named Person. Further clarity will be provided around who can fulfil the Named Person functions in different circumstances. The requirement for continuity of the Named Person service to cover holidays and absences will be further explained. There will be a re-stating of the principles of working in partnership with children, young people and parents, recognising that parents and families have the primary responsibility for the wellbeing of children and young people.

Communicating information about the Named Person service

4.7 The duties and responsibilities on service providers to communicate information about the Named Person service further explored and explained. In the months and weeks leading up to commencement there will also be comprehensive information for children, young people and parents regarding what to expect from the Named Person service.

Duty to help the Named Person

4.8 This part of the guidance will be revised to ensure that it clarifies how the duties in the Act apply to service providers and relevant authorities as defined in the Act. The guidance will make clear how the duty to comply with a request for help should be managed to ensure that this provides a balance between supporting reasonable requests and allowing service providers and relevant authorities to refuse requests that are incompatible with their duties or unduly prejudice their functions. The guidance will highlight the importance of having processes to resolve disputes and further assistance will be provided in practice materials.

Information Sharing

4.9 This section of the statutory guidance will be revised to simplify its structure and ensure the language is easy to understand. The guidance will reinforce that the existing statutory framework within which information is recorded, stored and processed fairly and lawfully remains in place. The guidance will also demonstrate how the information sharing duties are specific to the exercise of the functions set out in Part 4 of the Act.

Part 5 - The Child's Plan

4.10 This section of the guidance will clarify the criteria for requiring a Child's Plan by further explaining the terms 'wellbeing need' and 'targeted intervention'. It will reinforce the central role of the child and parents in the development of the Child's Plan and explain more fully the roles of responsible, managing and listed authorities, and third sector organisations. The guidance will support the understanding of the Child's Plan Order and will make clear the relationship of the Child's Plan with other planning processes, some of which have a statutory basis. There will be further explanation on the respective roles of the Named Person and the Lead Professional in managing the Child's Plan.

5 Development of Practice Materials

5.1 In response to the feedback from the consultation and to support the statutory guidance, practice materials are being developed in co-production with Community Planning Partnerships³, professional sectors and third sector organisations. They will be available nationally and locally to support the statutory guidance. They include:

- Provision of the Named Person service for key groups and during holiday periods
- Child's Plan guidance and Order in relation to understanding 'targeted intervention' within existing assessment and planning processes, specifically - staged intervention and Additional Support for Learning, child protection, Looked After Children, Children's Hearings and Self-directed Support
- Training and staff development materials with a focus on the role of the Named Person and the duty to support the Named Person service
- Complaints process (formal consultation September-October) and local professional dispute resolution
- Role of and links with the third sector.

5.2 The table at Annex A provides a summary of the current practice materials being developed in co-production with key strategic groups.

³ Referred to as CPPs throughout the rest of the document

6 Connecting with GIRFEC

6.1 We are working with partners across Government and children's services in Scotland to deliver a comprehensive communications and engagement programme, ensuring the organisations and practitioners delivering GIRFEC duties and services understand how the incoming legislation will impact their work. We are also working extensively with third sector networks supporting children, young people and their families to ensure they understand what the new services mean for them and how they can benefit.

Children, Young People, Parents and Carers

6.2 Working with partners across children's services in the Public and third sectors and a range of parent networks, we are identifying appropriate channels and specific information needs of different audiences in order to effectively inform them about GIRFEC and the incoming legislation. Activities include:

- **Case studies** - We are collating real life stories of where concerns, addressed early enough, have or could have improved a child's or young person's life. Told from the perspectives of the child, young person or parent and the professionals involved, they will show the benefits of the GIRFEC approach and availability of the Named Person service in practice.
- **Information roadshow** - A series of Q&A events to take place across Scotland will offer the public - parents and young people in particular - an opportunity to ask their own questions about GIRFEC legislation and the Named Person service and hear more about how it will impact families across the country. Information on these events will be available on www.gov.scot/gettingitright and publicised on our Twitter feed [@girfec](https://twitter.com/girfec) as they are confirmed.
- **Digital engagement** - www.gov.scot/gettingitright is being updated to offer a more accessible central information source, hosting all GIRFEC publications and case studies, and signpost audiences to other information sources relevant to their interests. Members of the public will also have the opportunities to engage directly with the team behind GIRFEC through Twitter and Facebook Q&A events.
- **Public information campaign** - Following the publication of the statutory guidance and in advance of the GIRFEC duties coming into force in August 2016, we will run a public information campaign to ensure people know how the GIRFEC duties will operate and how children, young people and families can access the Named Person service.

Practitioners

6.3 We are working with bodies who have responsibilities under the Act to inform and support professionals undertaking new GIRFEC duties. Alongside the development of practice materials, the range of co-production and communication support includes:

- **Conferences and seminars:** - the National Team regularly contribute to annual and one-off sector events to educate practitioners on various elements of the incoming legislation and provide updates on implementation progress.
- **GIRFEC Knowledge Hub site** - The Knowledge Hub is an online platform for public service collaboration, offering easy, centralised access to information and guidance materials for managers and practitioners involved in implementing the Children and Young People (Scotland) Act. The GIRFEC Knowledge Hub site has been redesigned to offer more accessible and tailored support to practitioners to encourage them to share examples of good practice in their fields and benefit from peer support.
- **National communication materials:** - Reflecting the national framework and standards of practice being introduced, we are working with local authorities, third sector organisations and Public Sector bodies to identify materials that will help inform and promote the GIRFEC approach and related services within the local context. This includes a Communication Pack providing a clear explanation of what the new duties are and how they are intended to support children, young people and their families, and the Named Person Myth Buster addressing some of the misinformation currently circulating.

7 Conclusion and Next Steps

7.1 Working collaboratively with a wide range of stakeholders, groups and organisations in revising the guidance, the version to be issued in November will address the issues raised and provide a clear framework for implementation.

7.2 Following the passage of secondary legislation through Parliament in January 2016, the final version of the statutory guidance will be published in spring 2016. The Scottish Government will continue to support the public bodies and organisations who will have responsibility for implementing the GIRFEC provisions of the Act as we move to commencement. The development of practice materials will be on-going in partnership with a full range of stakeholders and made available through the Knowledge Hub and other national forums.

Practice Materials

In response to the feedback from the consultation, practice materials are being developed in co-production with Community Planning Partnerships, professional sectors and third sector organisations. They will be available nationally and locally to support the statutory guidance.

Practice Material	Action	Output	Timescale for Completion
Monitoring readiness for implementation	Work with CPPs to identify processes	Touch point checklists for strategic managers and practitioners	Completed May 2015 Available on the Knowledge Hub
Supporting the role of the third sector	Alliance / third sector National GIRFEC Project	Touch point checklist	September 2015 Available on the Knowledge Hub
Supporting links with Youth Justice processes	Pilot programme in East Ayrshire Examine good practice in Falkirk	Work plan based on Touch point checklist approach	Pilot started September 2015
Continuity of Named Person Service	Survey of arrangements summer 2015 – sent to Local Authorities and Independent Schools	Practice Note developed from survey results	October 2015
Provision of post-school Named Person Service	Work with practitioner group from CPP	Flowcharts, Touch point checklist, and Q&A	November 2015
Tips for local sports organisations and small voluntary orgs on engaging with the Named Persons	Safeguarding on Sport and Sport governing bodies	Short Practice Note for Knowledge Hub	November 2015
Named Person Service for Gypsy / Traveller children	Work with Fife CPP and Article 12	Practice Note and Article 12 materials	December 2015
Signposting for Named Persons on bullying	Working with RespectMe	Short Practice Note for Knowledge Hub	December 2015

Practice Material	Action	Output	Timescale for Completion
Signposting for Named Persons on Young Carers	Working with Aberlour and Edinburgh Young Carers; will link with SG policy colleagues	Practice Note for Named Person	December 2015
Children's Rights, child's voice, seeking the views of the child	third sector focus group to begin discussions	Practice note	Spring 2016
Wellbeing needs and considering factors leading to the Requirement for a Child's Plan	Work with stakeholders	Practice notes	Spring 2016
Links with existing Child Protection processes	Liaison with Child Protection Committee Chairs' Forum and Child Protection GIRFEC Group / Social Work Scotland Children and Families Standing Committee	Practice Notes	Spring 2016
Links with existing Children's Hearings processes	Liaison with Children's Hearings Improvement Partnership GIRFEC working group	Practice Notes	Spring 2016
Links with Additional Support for Learning processes – pupil planning leading to a Child's Plan	Additional Support for Learning Officers working group	Practice Notes	Spring 2016
Links with Self-Directed Support processes	Liaison with Self-Directed Support policy leads	Practice Note	Spring 2016
Complaints about Parts 4 and/or 5	Public consultation on options (4 September – 30 October)	Practice Notes and a range of communication examples for a range of stakeholders	Spring 2016



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