

Document 14

To: GIRFEC Practice Development Panel
From: Statutory Guidance Reference Group (SGRG)

Framework for Statutory Guidance required to support Part 4 and Part 5 of the Children and Young People (Scotland) Act 2014

FINAL REPORT

Purpose

1. The purpose of this Report is to:
 - propose a framework for the revised Statutory Guidance to support implementation of Part 4 and Part 5 of the Children and Young People (Scotland) Act 2014 ('the Act')
 - offer additional recommendations on the development of practice guidance materials and other supporting resources, including for training and communication to help improve public and professional understanding of these parts of the Act and the proposed amendments under the Information Sharing (Scotland) Bill 2017 ('the Bill').

Background

2. The SGRG is a short life working group, which was established in October 2017 to provide advice on the proposed framework and content of the Statutory Guidance to support delivery of Parts 4 and 5 of the Act.
3. The SGRG comprised of senior practitioners and managers from across the Public Sector and who would have duties under Parts 4 and 5 of the Act and a small number of individuals from key partner organisations, including from the voluntary sector. A list of members is attached at Annex A.
4. The SGRG met 3 times, with the final meeting taking place on 20 February 2018. This Report reflects feedback from participants on behalf of their organisations at these meetings and in correspondence.
5. The SGRG unanimously agreed that the intentions and principles underpinning Getting It Right For Every Child (GIRFEC) and Parts 4, 5 and 18 (sec96) of the Act remain important and that their comments and suggestions with respect to the Statutory Guidance and other recommendations are aimed to help ensure the smooth implementation of this important policy, with the confidence and support of practitioners and children and families.
6. The group discussed that in some places interim processes for information sharing have been put in place and some areas felt confident about sharing information within and between services and were familiar with the law. Others reflected that there was confusion amongst some practitioners about what information could be shared and some were finding that there was a more cautious approach to sharing information. It was reported that practice is varied across the country. Others highlighted concerns about the implications of

future changes to the law and about misinformation about the Named Person service being presented to children and families.

7. The SGRG highlighted some specific examples of current good practice and recommended further examples be identified from across Scotland –

- The pan-Ayrshire GIRFEC website¹ provides Guidance and tools to assist all GIRFEC partners, parents carers and young people. This includes an Information Sharing Flowchart and a practitioners helpline for advice and support, to enable them to share information proportionately and appropriately.
- Partner agencies across Aberdeen City Council, Aberdeenshire Council, Moray Council, Police Scotland and NHS Grampian have also produced interim guidance which provides overarching practice principles around information sharing and sits alongside agency specific guidance². SGRG suggested that the Panel could consider whether these could provide useful templates to ensure a national consistent approach to information sharing under the current legislative framework.

Proposed Framework for Draft Statutory Guidance

Purpose & Audience

8. The SGRG recognised that the purpose of this Statutory Guidance is to interpret parts 4, 5 and 18 (section 96) of the Children and Young People (Scotland) Act 2014 and to set out the legislative requirements of those with duties set out in those parts of the Act. Therefore the primary audience for the Statutory Guidance is strategic leaders and managers. Other organisations such as scrutiny or regulatory bodies, third sector organisations may also find the Statutory Guidance helpful.

9. The Group also recognised that children, young people and families may wish to read the guidance to help them understand the key elements of this legislation and their rights and entitlements. The Group agreed that the Guidance should be written in plain English to ensure that it can be as accessible as possible however this must not compromise the need for the Guidance to reflect and accurately explain the law and the steps service providers must take to comply with it.

10. The Group agreed that the starting point for the development of any communications or practice material should be to consider what practitioners and children and families need in order to implement and understand these parts of the Act.

Structure

11. The SGRG members recommended that the Statutory Guidance should follow the sequence of the provisions set out in the legislation. It should also set out how the secondary legislation relating to Provision of Named Persons, Child's Plan and Complaints, are to be interpreted. The SGRG considered it essential that the relationships and

¹ <http://girfec-ayrshire.co.uk/>

² <https://www.aberdeencity.gov.uk/sites/aberdeen-cms/files/2018-02/Practitioners%20Guidance%20on%20Information%20Sharing%20Consent%20and%20Confidentiality.pdf>

interaction between the law, the Code of Practice for information sharing, practitioners' guidance on Parts 4 and 5 and on the assessment of wellbeing should be set out clearly. The SGRG considered what a draft contents page may look like. **A Framework for the contents and flow of the Statutory Guidance is provided at Annex B.**

Members also discussed

Content

12. The SGRG emphasised the importance of taking a rights-based approach to the implementation of these parts of the Act in line with the United Nations Convention on the Rights of the Child (UNCRC) and other human rights conventions. It also advised that it should be clear from the outset that the child is at the centre and should provide a high level of clarity on the links between Getting It Right For Every Child, the data protection legislation and the GDPR and clarify how the Statutory Guidance and Code of Practice will work together.

Tone

13. The SGRG advised that the Statutory Guidance should have a positive tone and that it should support a rights-based approach to offering support for children, young people and parents. This means that that guidance should adequately ensure that the Named Person service is able to operate in a way which empowers, supports and protects children and their families in line with the UNCRC and other human rights treaties. It should also make clear that the Named Person service will be available as an entitlement with no obligation for children and young people or parents to accept any offer of advice or support unless there are exceptional circumstances such as Child Protection issues.

National Practice Resource

14. The SGRG recommended that the Statutory Guidance should be accompanied by robust and clear national practice resource that is available in one single document. This document should contain practical materials and tools such as case studies/ examples, flow charts/ decision trees, graphics, illustrations and check lists etc.

15. The development of a national practice resource is aimed directly at supporting practitioners who work with children and families. Importantly this should address the needs of practitioners who will, through their organisations, have formal responsibilities in relation to Parts 4, 5 and 18 (Sec 96) of the Act, and also those practitioners whose organisations will not have formal duties but who will still have a role in supporting children, young people and families, including those in the third sector.

16. The national practice resource should set out how the Named Person Service will operate, including the assessment of wellbeing, and how the Child's Plan will be offered and delivered in practice. While it would allow the flexibility required by local authorities to develop practice that suits the needs of each individual local authority and the children and families within it, it would also aim to achieve a consistent approach to delivering the services outlined in Parts 4 and 5 as envisaged in the original intentions of the Act.

17. Such a national practice resource should link back to the Statutory Guidance and present as a clear and concise demonstration of how Parts 4 and 5 can be delivered on a

practical basis, in the wider context of GIRFEC. This will allow the drafting of the Statutory Guidance to focus solely on the interpretation of the Act. The practice resource would then have the flexibility to cover other issues (such as Information Management) and the option to be regularly updated to reflect emerging best practice.

18. It is clear from the broad support for practice resource among practitioners, from both the public and third sector, that there is a wealth of experience that the Scottish Government can draw from to ensure the practice resource meets its desired purpose.

Other Supporting Materials and update of GIRFEC Guidance

19. The Group considered that the Scottish Government, local authorities, health boards, the third sector and other organisations may wish to develop other supporting materials in addition to the Statutory Guidance and national practice resource.

20. In particular, the Group is aware that the GIRFEC National Implementation Support Group has identified a need to reaffirm the Getting It Right for Every Child policy. The SGRG welcomes this, and believes that it is important that practitioners and children and families are able to access clear information about GIRFEC.

Additional Recommendations

21. The SGRG discussed the need to ensure that practitioners, children, young people and families understand what is currently happening and are clear what existing information sharing processes and data protection law is. They also considered that it would be helpful to be clear about existing best practice relating to GIRFEC. The Group is aware that some areas are delivering the Named Person Service on a policy basis. The Group therefore makes three clear recommendations:

- Firstly, the Group recommends the production of Interim Guidance to be issued to all those with duties under Parts 4, 5 and 18 (Sec 96) of the Act to ensure those working in the system are clear about their roles, responsibilities and current procedures while the Bill completes its passage through parliament. This guidance should clearly set out the current legal framework relating to information sharing and data protection. Some local authorities and health boards have already issued material which could be highlighted as 'good practice examples' (see para 7).
- Secondly, the Group recommends that accessible information is made available to help children, young people and families to understand the core elements of Parts 4, 5 and 18 in a variety of formats in advance of the commencement of Parts 4 and 5. To provide clarity about the Named Person Service, it is vital that children and families are able to access clear, concise and accurate information about the service, including how to access advice, support and assistance. It should be emphasised that parents retain control of their relationship with universal services and the Named Person in particular, unless under exceptional circumstances such as where Child Protection issues arise (in line with the current draft Statutory Guidance). This work should inform communication activity to raise the profile of the Getting it right for every child approach.

- Thirdly, the Group recommends that a plan is put in place to ensure all eventualities are prepared for in advance relating to the passage of the Information Sharing Bill and potential ways forward. The priority of this Group is the effective implementation of the core elements of Parts 4, 5 and 18 (Sec 96) as soon as possible with the confidence and support of practitioners and children and families and we therefore advise the production of plans and communication approaches to ensure the continued success of Getting it right for every child.

Training Materials

22. The group advised that in their view a centrally administered national training programme is not required. National learning and development materials should be developed by the Scottish Government and partners in advance of commencement of Parts 4 and 5. These materials would be used by local organisations to support staff learning and development in their areas and organisations, and drive national consistency.

Next Steps

23. The initial remit of the group has been fulfilled. SG GIRFEC officials and SGRG members are currently considering how they will continue to engage with this work.

Conclusion

24. The GIRFEC Practice Development Panel are asked to consider -

- The feedback from the SGRG contained in this report
- The proposed framework for the revised Statutory Guidance attached at annex B
- The recommendations made by the Group, specifically:
 - The development of national practice resource to accompany the Statutory Guidance
 - The production of interim guidance/ sharing of current good practice
 - The development of communications materials to provide clarity on the policy
 - The development of forward plans and communications

List of Annexes:

Annex A – Membership of Statutory Guidance Reference Group

Annex B - Draft Framework for Statutory Guidance

Annex A – Membership of Statutory Guidance Reference Group

First Name	Surname	Organisation
Bryony	Revell	Aberdeenshire Council
Maureen	Berry	Health Improvement Scotland
Chris	Ridley	NHS Lothian Maternal and Child Health Planning, Policy and Performance Directorate
Maggie	Watts	NHS - Western Isles
Debbie	Smith	NHS Dumfries and Galloway
Maria	Galli	South Ayrshire Council
Eleanor	Sheppard	Aberdeen City Council
Anne Marie	Knox	NHS 24 - Nurse consultant safeguarding Children and Young People
Liz	Kearney	NHS Lanarkshire
Kirsty	Ramsay	East Ayrshire Council
Pauline	Beirne	Scottish Government - AHP CYP National Lead
Fiona	Robertson	Angus Council
Maureen	Swannie	NHS Orkney/ Orkney Council - Interim Head of children's health services and service manager
Judith	Gemmel	NHS Fife - Lead Nurse Health Visitor
Philomena	Rakhra	NHS GG&C
Paul	Gilroy	CrossReach and Educating Through Care Scotland [EtCS]
Robert	Auld	West Dunbartonshire
Jackie	Irvine	Social Work Scotland (also West Dunbartonshire)
Chloe	Riddle	Children 1st
Gillian	Ferguson	SCIS Scottish Council of Independent Schools
Lisa	Finnie	Scottish Guidance Association
Annie	Hair	Community Practitioner and Health Visiting Association
Nikki	Black	Head Teacher Parkhead Nursery
Pauline	Lynch	Education Scotland
Lillian	Douglas	Scottish Prison Service
Brian	Johnston	Police Scotland
Norrie	Conway	Police Scotland
Janine	McGowan	Scottish Government - Professional Advisor - Youth Justice

Annex B – Draft Framework for Statutory Guidance on Parts 4 and 5 and section 96

Contents

Foreword

- Summary of purpose and contents
- High level ambitions and commitments – Best place to grow up...UNCRC
- Tone, positive, plain English and focus on children and young people
- Key messages – call to action, partnership with children, young people, parents and communities and between services

Introduction

- Purpose and format of the statutory guidance (clarify relationship between Statutory Guidance, Code, Practice Guidance/materials)
- Who this guidance is for
- The Act in context (related policy and legal context)
- Background to and key elements of the GIRFEC approach (emphasise a rights based approach, UNCRC)
- The GIRFEC Principles
- References and links to legislation cited in the document and other relevant legislation

Wellbeing

➤ Part 18 (section 96) - Assessment of wellbeing	Section 96
➤ Purpose of section 96	
➤ Taking a holistic view of wellbeing	
➤ Wellbeing and children's rights	
➤ Wellbeing and welfare clarify interaction between wellbeing and Child Protection processes	
➤ Indicators of wellbeing (includes description of wellbeing)	
➤ Assessing wellbeing	
➤ Who should contribute to an assessment of wellbeing	
➤ Wellbeing of (specific) groups of children retaining current groupings (e.g. gypsy travelling community, home educated etc) and consider adding e.g. pre-birth, 16 to 18 year olds.	

Named Person

Summary of Part 4		sections 19-32
Making a Named Person service available		Section 19
	➤ To whom is the Named Person service made available	
	➤ Which organisations should make the Named Person service available	
	➤ Summary of what the Named Person service means (emphasise the duties of Named Person service to support the NP)	

	➤ Identifying an individual to exercise the Named Person functions (<i>including where there is more than one named person/ service providers</i>)	
	➤ Requirements to fulfil the Named Person functions	
	➤ Cross border considerations	
	➤ Functions of the Named Person	
	➤ Named Person and the reserve forces	
	➤ Continuity of Named Person service	
Responsibilities of Health Boards		Section 20
Named Person service provider for children from age five, or school entry, until their 18th birthday. <i>This includes children who are home schooled, the gypsy travelling community and children who leave school at 16 and children in secure care or YOI.</i>		Section 21
Continuity of Named Person service for young people on a school roll beyond their 18th birthday.		Section 22
Communication when Named Person service provider changes		Section 23
Communicating and publishing information about the Named Person service		Section 24
Duty on service providers and relevant authorities to respond to the Named Person service provider		Section 25
Appropriate and proportionate sharing of information by the Named Person and others <i>Section 26 (as amended)</i>		Section 26
Limitations on provision of information <i>Section 26 A (as amended)</i>		Section 26 A
Code of Practice in relation to provision of information <i>Section 26 B (as amended)</i>		Section 26 B
Statutory guidance – compliance and future revisions		Section 28
Directions by Scottish Ministers – compliance and future revisions		Section 29
Complaints		Section 30
Relevant authorities		Section 31
Interpretation of terms used in Part 4		Section 32

Child's Plan

➤ Part 5 – Child's Plan	
➤ Purpose of Part 5	
➤ Summary of part 5 (sections 33 – 45)	Sections 33 - 45
➤ Requirement for a Child's Plan (and how it differs from a wellbeing assessment)	Section 33
➤ Content of a Child's Plan and order making power	Section 34
➤ Duty to prepare a Child's Plan (make clear the difference between assessments of wellbeing and making a Child's Plan)	Section 35
➤ Responsible authority for a Child's Plan (and the role of the Lead Professional as set out in the Child's Plan order)	Section 36
➤ Responsible authority in special cases	Section 37

➤ Duty on relevant authorities in relation to delivery of a targeted intervention to meet children’s wellbeing needs	Section 38
➤ Management and review of Child’s Plan	Section 39
➤ Duties on relevant and listed authorities to comply with requests for assistance	Section 40
➤ Limitations on provision of information <i>Section 40A (as amended)</i>	Section 40 A
➤ Code of Practice in relation to provision of information <i>Section 40B (as amended)</i>	Section 40 B
➤ Compliance and consultation on statutory guidance for Part 5	Section 41
➤ Directions by Scottish Ministers – compliance and consultation	Section 42
➤ Complaints: Child’s Plan	Section 43
➤ Authorities listed or described in Schedule 3	Section 44
➤ Definition of terms used in Part 5	Section 45

Information Sharing Code of Practice

- Reference to the Code of Practice (development of this section to be informed by the work of the panel)

Orders

- Guidance on each order to support implementation
 - The Named Persons (Training, Qualifications, Experience and Position) (Scotland) Order
 - The Child’s Plan (Scotland) Order
 - The Children and Young People (Scotland) Act 2014 (Part 4 and Part 5 Complaints) Order

Annexes A-C

- **A Glossary of terms** - Succinct, plain English

Further areas for consideration include B&C below

- **B Named Person service for the new-born wellbeing of pregnant women**
- **C Content of the Child’s Plan**