

## **GCVS Briefing**

### **Parts 4, 5 and 18 of the Children and Young People Act 2014 Draft Statutory Guidance**

The Scottish Government has released draft Statutory Guidance for Parts 4, 5 and 18 of the Children and Young People (Scotland) Act 2014<sup>i</sup> and is consulting on the provisions therein. These parts of the Act relate to the role of the Named Person, the Child's Plan and the General sections of the Act. The guidance is aimed primarily at statutory authorities responsible for implementing and operating the provisions of the Act, and includes independent schools, however, third sector organisations will find it a useful accompaniment to the Act when planning services and assessing the wellbeing of children and young people in their care.

The Named Person and Child's Plan provisions will be commenced by 1 August 2016, while other parts of the Act are already in force.

#### **Named Person**

The role of the Named Person has caused some controversy, with some opponents suggesting that it intrudes on the privacy of family life, but many children's organisations have welcomed the role and its implications for identifying and acting on wellbeing concerns. Proponents cite examples of avoidable tragedies, whereby there was no joined-up system capable of responding adequately to concerns raised by different agencies.

In an education setting, the Named Person must be a promoted post, meaning that they must be a Principal Teacher a Deputy Head Teacher or a Head Teacher. In secure units, the Head of Unit will be Named Person, while pre-school age children will be the responsibility of health visitors.

Gypsy/Traveller children will also be entitled to a named person and the guidance makes this explicit. While many of these families are settled, there are some who may reside for only part of the year in a local authority area and arrangements will have to be put in place for the transfer of responsibility for the Named Person role when the child moves to another area. This should take place in consultation with families.

Children who are home-educated will also have a Named Person and will be the responsibility of the health board or local authority in which the child resides.

The guidance includes reference to the Named Person Service for the new-born and maternity services that help ensure the wellbeing of pregnant women. If wellbeing concerns for a newborn child are anticipated, then plans should be put in place to promote, support and safeguard wellbeing at birth and women should be supported throughout their pregnancy to make the best health choices for their unborn child.

The Named Person will act as a central point of contact for parents and others who may be concerned about a child's wellbeing, however, child protection concerns should be reported directly to local social work services and the Named Person should be informed at the earliest opportunity.

## **Information Sharing**

Service providers providing services for children, young people and their families on behalf of a local authority or health board, will have a duty to assist the Named Person in exercising their functions. Section 26 of the Act sets out the duties and powers in relation to information sharing, and provides a Framework to support the proportionate and appropriate sharing of information by the Named Person and others in support of the Named Person functions. There are certain exceptions to this duty and organisations concerned about the sharing of information and breaches of confidentiality, should refer to the Act and to the guidance for further instruction.

## **Assessment of wellbeing**

While this guidance is aimed primarily at statutory services, the directions on assessing wellbeing will be of use to all childcare practitioners and will help to frame the development of most services for children, young people and their families.

The guidance sets out how practitioners should assess wellbeing across the safe, healthy achieving, nurtured, active, respected, responsible and included indicators in recognition that many of these factors are inter-related and overlap.

Each wellbeing indicator is related in the guidance to Articles in the UNCRC. By relating each of these indicators to human rights, the guidance makes explicit that they are in fact the human rights of children and should be approached as such. This demonstrates the Scottish Government's ongoing commitment to rights based approaches to the delivery of public services.

## **UNCRC & SHANARRI**

**Safe** – protected from abuse, neglect or harm (UNCRC Articles 11, 19, 22, 32, 33, 34, 35, 36, 37, 38)

**Healthy** – having the best possible standards of physical and mental health; support to make healthy, safe choices (UNCRC Articles 3, 6, 24, 39)

**Achieving** – accomplishing goals and thereby boosting skills, confidence and self-esteem; 'being all they can be' (UNCRC Articles 4, 18, 28, 29)

**Nurtured** – having a loving and stimulating place to live and grow (UNCRC Articles 4, 5, 18, 20, 21, 25, 27)

**Active** – having opportunities to take part in a wide range of activities (UNCRC Articles 3, 23, 31)

**Respected** – being enabled to understand their world, being given a voice, being listened to, and being involved in the decisions that affect their wellbeing (UNCRC Articles 2, 3, 4, 5, 8, 12, 13, 14, 16, 17, 18, 30)

**Responsible** – taking an active role within their home, school and community (UNCRC Articles 3, 12, 14, 15, 40)

**Included** – being a full member of the communities in which they live and learn; receiving help and guidance to **overcome** inequalities (UNCRC Articles 3, 6, 18, 23, 26, 27)

### **Wellbeing Concerns**

The guidance includes examples of when a practitioner should become concerned about a child's wellbeing and aims to distinguish between minor issues, such as the accidents that all children suffer from time to time and where a parent has sought immediate medical attention, and major issues, which could include neglect – as in not seeking medical treatment immediately and prolonging a child's suffering. "Wellbeing concerns will be on a continuum of severity"

While in reality the eight wellbeing indicators often overlap, the guidance gives the following examples of wellbeing concerns under the SHANARRI headings, which include, but are not limited to, what is set out below.

A child may:

**Safe** - be left unattended at home or in the community; be victimised at school or in the community; be involved in risk taking behaviour;

**Healthy** - have repeated untreated head lice infestations; have untreated dental caries; report self-harming; be involved in regular, or excessive, underage drinking;

**Achieving** - have poorly developed speech and language skills; lack the confidence to tackle new experiences or tasks; be unable to attend school regularly, or for the whole day, due to caring commitments;

**Nurtured** - show poor attachment to primary care givers; experience a poor or inconsistent level of physical or emotional care within the family setting;

**Active** - have poor gross motor skills; have no opportunity to engage in age-appropriate play or cultural, sporting or recreational activities;

**Respected** - feel that their views are not listened to and given due consideration; be unfairly treated because of their background, beliefs or characteristics;

**Responsible** - be misusing alcohol, drugs or other harmful substances; be engaging in anti-social, dangerous or offending behaviour in the community; not respect others' possessions;

**Included** - have limited support to overcome social, physical or emotional barriers to participation in family, school or community life; not feel accepted or valued in school or in the community.

### **Child's Plan**

Where there are concerns about a child's wellbeing and targeted intervention is necessary, a Child's Plan will be put in place, with the aim of coordinating activities to address the wellbeing need. The Child's Plan will include the steps to be taken to address this need, which may include one or more targeted interventions. Targeted intervention is defined as a service which is directed at meeting the needs of children whose needs are not capable of being met, or met fully, by the provision of services that are generally available. There will of course be degrees of severity when assessing wellbeing and the response must be proportionate, involving the child and their family/carer at all

stages of the development of the plan. Not all children will require a Child's Plan and may instead access readily available support if there are wellbeing concerns that can be addressed easily.

Any intervention must be proportionate and planning should include the involvement of children and their families at all stages.

The guidance gives the following examples of the types of services that may be considered for targeted interventions:

- Speech and language therapy input
- Parental support through targeted parenting programme
- Specific prescribing/dispensing schedule for methadone for parent
- Inclusion in a school nurture class
- Parent and child participation in healthy weight programme
- Befriending support for child
- Child and Adolescent Mental Health Services (CAMHS)
- Fire safety awareness/Fire setter prevention programmes

The consultation seeks views on whether the guidance provides clear explanation of the requirements of the Children and Young People Act and asks how guidance on each of the provisions could be made clearer. For example, in relation to the role of the Named Person – whether the level of detail on the functions is sufficient and whether there is sufficient clarity on the role. In relation to information sharing, it is asked whether the guidance makes clear that the relevant and proportionate information under this Act must meet the requirements of the Data Protection Act 1998 and the European Convention of Human Rights. Organisations are given the opportunity to give their views on these and other issues in their response.

The draft guidance is extensive and only the key issues have been included in this briefing. Those who wish to read the full guidance and respond to the consultation can access it [here](#).

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<sup>i</sup>Children and Young People (Scotland) Act 2014  
[http://www.legislation.gov.uk/asp/2014/8/pdfs/asp\\_20140008\\_en.pdf](http://www.legislation.gov.uk/asp/2014/8/pdfs/asp_20140008_en.pdf)