



the National Parent Forum of Scotland

Children and Young People (Scotland) Act 2014 – Draft Statutory Guidance: Consultation response April 2015

Introduction

The National Parent Forum of Scotland (NPFS) was established in 2009 following the introduction of Parent Councils by the Scottish Schools (Parental Involvement) 2006 Act. The Forum aims to support parental involvement in education and provides a parental perspective at the national level. The Forum is parent-led and is comprised of volunteer parent representatives from each local authority area, who communicate with Parent Councils and support parent involvement at the local level.

NPFS parent representatives were involved in focus groups with Scottish Government officials on the Named Person and Child's Plan provisions in the Act, and this response draws on the views expressed in these discussions, as well as from the findings of a parents' focus group which was held in Girvan in January 2015 (jointly with the Commission for Childcare Reform), and in the responses provided in our online parents' survey on childcare and early learning, which ran in February-March 2015 and had 169 individual responses from parents across Scotland¹.

We are currently involved in a co-production project to create messages about the GIRFEC provisions in the Act with parents, children and young people. This work is funded by the Scottish Government and is being undertaken in partnership with Children in Scotland, Young Scot and the Scottish Youth Parliament.

While NPFS provides a parental perspective on matters pertaining to education policy and practice, we do not claim to represent all parents. Our policy positions are informed by the views of parents as gathered through our research and as reported to us through our network of parent volunteers representing local authority areas across Scotland. However, some parents may have a different position from the majority view presented here.

¹ A report on the focus group and survey findings is available at:
<http://www.npfs.org.uk/2015/04/20/early-learning-and-childcare-report-from-focus-group-and-internet-survey/>

General comments

Overall, we support the aims of GIRFEC and the underlying principle that the needs and views of parents and children should be placed at the centre of all policy and practice relating to them.

However, there are some areas in which we think the guidance would benefit from greater clarity, and there are also concerns with some of the provisions which have been expressed to us by parents, and which we believe need further consideration.

We would welcome greater clarity from the Scottish Government as to whether they intend to produce practitioner guidance, as opposed to practice materials, in addition to this strategic-level guidance. In order to help ensure that the provisions are successfully enacted, our view is that it is necessary to produce guidance, as this will carry greater weight than materials that support practitioners to carry out their role.

Scottish Government has commented that it is for local authorities, health boards and other bodies who have responsibility for carrying out the duties to develop their own guidance for practitioners which is tailored to local needs. However, we believe that national guidance for practitioners will help ensure greater consistency of approach across Scotland and would help address concerns that there will be a 'postcode lottery' in terms of delivery. It will also support a common understanding of what is meant by wellbeing needs and other terms used within the Act. The strategic guidance which is being consulted on is something of a mix of statutory and practice guidance, and it would be better if there were separate, distinct guidance which meets the needs of the professionals who will have responsibility for delivering the Named Person service, developing Child's Plans and using the wellbeing definition in their day-to-day work.

We welcome the intention to produce guidance for parents, and would encourage this to be developed in consultation with parents to help ensure that their concerns are properly addressed. It is perhaps unfortunate that at 1.1.5 it is stated that the guidance has not been written in a way that is accessible to children and parents. Children, young people and parents should be consulted at all stages of developing legislation or statutory guidance in order to ensure that it meets their needs. By stating that the guidance is not intended for parents and children and young people, this may prevent many children, young people and parents from contributing their views.

A further issue is that Part 1 of the Act, which is in relation to the UNCRC, seems to sit alone, and that rights are not woven throughout the rest of the Act and guidance. One way of helping to resolve this, and some of the concerns raised below, would be to undertake a Child Rights Impact Assessment on the guidance.

Named Person

With regards to the enactment of the Named Person duties in August 2016, it is essential to ensure parents are informed about what is happening and that they are able to be involved in this process. In most cases the Named Person's role will be a continuation of what already happens, but the media and public perception is that this is something new which will lead to an unjustified state interference in family life. It is important to get the communications about this right and to address parents' concerns in a meaningful way.

Parents have raised a number of issues with us about the Named Person provisions, particularly in relation to assessment of wellbeing concern; bureaucracy; training for Named Persons; and confidentiality.

Although we support the overall policy intention behind the Named Person service, the role of the teacher as the Named Person for school-age children and how this could impact on parental involvement in education requires careful consideration, and could be better addressed in the guidance. If there is a wellbeing issue with regards to a family and the teacher is the child's Named Person, could this present a barrier to the parent's involvement in the school and in their child's education? There is a need to ensure that the parents who schools most need to engage with, and whose children would benefit most from greater parental involvement, are not deterred from participating due to a conflict of interest with teachers who are also their child's Named Person.

Paragraphs 4.1.11-14 address the issue of conflict of interest and discuss alternative arrangements that can be made if it is deemed inappropriate for the professional who would usually take on the Named Person role to do so (e.g. if they are related to the child or there has been a significant breakdown in the relationship). This issue could arise frequently in remote and rural areas where there is a greater likelihood of the Named Person having a personal connection to the family or being related to the child – a concern that parents raised with one of our representatives during a recent visit to several schools on an island in the Argyll and Bute area². The guidance needs to provide greater clarity on the mechanisms for addressing this issue – e.g. how will a parent or child request an alternative arrangement, who will make the decision, and what issues are likely to be taken into consideration when arriving at a decision? It is likely that there will be a lot of enquiries and complaints from parents in relation to this, and we would welcome further detail on this issue.

With regards to the complaints procedure, we believe that work on this is underway and will be formally consulted on in the summer, but it would have been preferable if the proposals for the complaints mechanism were included as part of this consultation in order to provide a joined-up picture.

² Notes of NPFS meetings, focus group reports and survey results are all available from office@npfs.org.uk on request

In our recent research with parents, one issue that emerged was about increased bureaucracy arising from the Named Person role, and whether the costs associated with establishing and delivering the Named Person service represent an appropriate use of funding, given that resources are stretched and local authorities throughout Scotland are making cuts to school budgets which in many cases could have a negative impact in children's learning experiences. For instance, see our response to the Education and Culture Committee's call for evidence on the Draft Budget 2015-16³, in which we highlight issues such as the cuts to additional support for learning, proposals to shorten the school week, and reductions in the number of classroom assistants. We believe the Scottish Government needs to do more to make the financial argument for the Named Person service clear to parents, emphasising the savings associated with prevention and early intervention.

Another issue that was raised came from parents of pre-school children, who told us that they rarely see their health visitor. Some parents felt that, due to the large number of children that health visitors have assigned to them, it will be impossible for health visitors to have any sort of meaningful knowledge or relationship with the family. Similar concerns have been raised about the capacity of teachers to undertake this role, particularly in large urban schools where guidance teachers (who will usually have delegated responsibility for the Named Person role) typically have responsibility for around 200 pupils⁴. The bureaucratic burden associated with fulfilling the Named Person duties for such large numbers of children and young people is likely to be considerable.

With regards to young people who leave school before the age of 18, we support the point previously raised by YouthLink Scotland that an education professional is not best placed to provide the Named Person service for 15, 16 and 17 year olds who are not in education, employment or training. Youth workers or other community education workers would be better placed to provide this role for this particular cohort. Otherwise, young people who have had a negative experience of education may be disinclined to engage with the Named Person if this is a teacher and they have to enter the school premises to meet them. At the same time, this group is entitled to the same support that a young person who stays on in school is entitled to receive, and may in fact be in greater need of support.

Further detail is needed on the plans for Named Person training. It would be preferable if this was interagency, so that teachers, health visitors and others receive the same training, and was integrated into existing CPD processes. It is crucial to get the training right, as this will help address many of the concerns that parents have raised. There will need to be robust guidance on assessing

³ Available at:

http://www.scottish.parliament.uk/S4_EducationandCultureCommittee/Budget/NPFS.pdf

⁴ As reported by the SSTA at the Children's Sector Forum meeting 27/04/15, minute available from Children in Scotland.

wellbeing concerns in order to support professional judgement about what constitutes a genuine risk, and what information should be shared, how this should be handled and when it should be retained or disposed of. Parents, children and young people will have greater confidence in the Named Person if they feel that all professionals undertaking this role have been fully and consistently trained in these issues.

Consideration also needs to be given to how Named Persons will have access to information about the full range of both universal and targeted support that can be accessed by children living in their local authority area, in particular the range of services offered by the third sector.

Parent representatives have also raised issues about expectations and redress. For example, what will happen if there is an identified need for a targeted intervention, but this then doesn't happen – perhaps due to a particular support service no longer being available? How will parents, children and young people have redress in order to ensure that they receive the support they feel they need?

The issue of who will deliver the Named Person service during school holidays and the implications of this for information sharing is still unclear and requires further detail. There is a further complication in relation to transitions, particularly during the holiday period from P7 into S1. Who will hold the information during this time, and how will it be transferred to the Named Person at the secondary school?

As discussed in 6.1.41-43, many families will have more than one Named Person for children of different ages. In communicating information about the Named Person to parents, it is important to try and present this information in a way that helps parents to easily access the names and contact details of all the different Named Persons for their children. It will be essential to consult parents about the best ways of doing this. From a practitioners' perspective, having different Named Persons involved with a family may mean it is difficult to gain a picture of the family as a whole, as they are dealing with the children separately. This is an issue that needs to be addressed in the training and practice guidance, as there is insufficient detail provided in the current guidance.

In 9.1.8 the issue of what happens if a Named Person's request for help from a service provider is declined. It would be helpful to have further details on what constitutes a 'clear reason' for declining to help, whether financial or otherwise. Again, it would be useful to have details on what will happen if a service provider declines to help, or is unable to help. Parents, children and young people will want to know what happens if they have a need that cannot be met by the service providers.

Information sharing

Part 5 provides details about how the views of children and young people will be taken into account, but this is less clear in Part 4. We would prefer greater

consistency and clarity in the guidance on how the views of family members – parents, children and young people – will be sought and then taken into account with regards to information sharing.

Concerns have been raised within the children's sector in relation 10.3.10, which permits a breach of confidentiality if it is considered that this is in the child's best interests. It is essential that the Named Person is clear about the threshold for breaching confidentiality and that this is not misused. The language around this is too open to interpretation, and there is insufficient mention of consent.

Children, young people and parents should be informed if information is being shared about them. This does, however, raise an issue about disclosure, as children, young people and parents may not wish to share information if they think it will be shared and they are unhappy for this to happen. Children, young people and parents are more likely to disclose information if they trust the Named Person and are confident that their personal information will be stored and handled securely and that it will be properly disposed of within a required timeframe.

The duties to share information also fall on adult services – so, for example, a GP would be expected to share information if a patient is a parent and they felt that there is a wellbeing concern that could potentially affect the child. Parents have concerns about unnecessary sharing of information where there is no real risk, and this is something that we believe should be fully addressed in practice guidance. The practice guidance should be made available to all professionals who may be involved in making decisions about sharing information and assessing wellbeing needs, not just teachers and health visitors.

A further issue is around the school holidays and what will happen if local authorities need to access information – will they be able to do so in a way that ensures confidentiality?

In 10.2.19, reference is made to children or parents who do not wish to engage with the Named Person. There is no requirement to do so unless there is a wellbeing concern. Our view is that overall the guidance is too vague about parental engagement and lacks detail about the process for this, and what will happen if a parent chooses not to engage with the Named Person when a concern about a child's wellbeing has been identified.

Child's Plan

The inclusion of parents in the decision-making process about whether a Child's Plan is required is welcome, as is the involvement of children and young people. We agree that the views of parents, children and young people should be sought, recorded and given full consideration, with the option to use advocacy or other support as may be required. From an ethical perspective, it is important that feedback on decisions is provided and that, if parents' or children's views have not been acted on, the reasons for this are clearly explained.

One of the key issues that emerged from NPFS' focus group with the Scottish Government, was parents' uncertainty about how the Child's Plan will fit with existing planning arrangements, such as coordinated support plans and individualised education programmes. This will need to be clearly articulated to parents, and professionals will need to ensure there is a joined-up approach to how these plans interact with each other.

With regards to the decision about whether to make a targeted intervention, there needs to be a clear, shared understanding between different professionals about what the trigger point for creating a Child's Plan is, and how to decide if the desired outcomes have been achieved.

11.3.6 discusses the inclusion of targeted interventions in the Child's Plan, which can only happen if the relevant authority agrees to provide the intervention. Reference is made to alternative arrangements being made, and that the processes should be swift and effective, but there is little detail provided.

Another factor that may cause concern to parents is the potential variation in what services may be available locally. Situations may arise where one local authority's definition of 'targeted intervention' differs from that used in a neighbouring authority, and parents may be dissatisfied if they learn of this variation. Issues may also arise if families move into a different local authority area and find that they are no longer able to access the same type of support they were entitled to receive in the authority they were previously resident in.

Wellbeing

Although we broadly support the wellbeing definition, there is a risk that the indicators are too subjective and broad and will rely on professionals' ability to interpret them, which could be problematic from a rights perspective. As mentioned above, this may be symptomatic of a disconnect from the provisions in Part 1 with regards to the UNCRC, and undertaking a Child's Rights Impact Assessment would help address some of the concerns about this section. Training for practitioners will also play a crucial role in helping them to reach a decision about what constitutes a wellbeing concern.

We support the comments raised by Children in Scotland in their submission in relation to the rights of the child. The SHANARRI indicators 'Responsible' and 'Respected' state that children have the right to be heard and to be involved in decisions that affect them, and this should be better reflected in the wellbeing indicators.

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