

Children and Young People (Scotland) Act 2014

Part 4 (Provision of Named Persons) and Part 5 (Child's Plan) Getting it Right for Every Child (GIRFEC)

The national GIRFEC Practice Model; the Named Person role (Part 4) and the Child's Planning process (Part 5) were all introduced in Argyll and Bute in January 2012, which was prior to the Children and Young People (Scotland) Act 2014 being passed.

The Named Person Service

Statutory provision of the Named Person was to be available nationally from 31 August 2016. However, public services in many areas of Scotland, including Argyll and Bute, already offer this service.

A Named Person will normally be the health visitor for a pre-school child and a promoted teacher - such as a head teacher, depute head teacher or other promoted member of staff - for a school age child.

Named Person duties are integrated into their current role and strengthen the support they currently provide, formalising their role as a central contact for children, parents and other people working with them.

The Named Person will be available to any person or agency who has information or concerns about a child's well-being. For the majority of families the input they receive from their health visitor, primary head teacher or guidance teacher has not changed, but the Named Person service is there if they require it. Where there is a named person in place it continues to be appropriate to share information with the Named Person where the conditions set out in the Data Protection Act are met.

If the Named Person Service is declined

A family has the right not to use the Named Person service, just as they have the right to decide to educate their child at home or not to have health visitor input.

Care should always be taken to emphasise the voluntary nature of the advice, information, and help that is offered to the family the individual acting as the named person.

If a parent states that they don't wish the named person service, you should endeavour to have an informed discussion about this with them, making clear what support you can provide, but it remains their right to decline a service. Families can also be offered the basic universal pathway health visitor contacts and be provided with information as to how they could access any additional services themselves -

e.g. going to see their GP about any health concerns or directing them to a third sector organisation about family support or toddler groups.

If you have reason to have a wellbeing concern about a child (i.e. not a child protection concern) you should invite the parent to discuss this with you. If s/he declines, that would be unfortunate. However, that is where it would end.

If someone contacts you with a concern about a child and it is recorded that the family do not want the named person service, you should advise the person contacting you of this and suggest how they might want to proceed to address the concern. As above, this does not apply in child protection situations.

Child's Planning Process

The Child's Plan is part of the GIRFEC approach and is available for children who require extra support that is not generally available to address a child or young person's needs and improve their wellbeing. A Child's Plan may also be used to inform where there are child protection measures.

What is a Child's Plan?

The Child's Plan helps services to co-ordinate additional help offered to a child, tailored to meet their specific needs and circumstances. It is developed in partnership with the child, their parent(s) and all the services involved.

The Child's Plan can be either single agency coordinated by the Named Person or multi-agency coordinated by a Lead Professional who work with the child, young person, parents and those supporting the child to ensure that the plan is taken forward to meet the needs identified.

Children and Young People (Scotland) Act 2014

Part 4 (Provision of Named Persons) and Part 5 (Child's Plan) of the Children and Young People (Scotland) Act 2014 were due to be implemented on 31 August 2016. Following the Supreme Court judgement on the Named Person legislation the Scottish Government will now not commence any provisions of the 2014 Act on 31 August 2016 as previously planned. In addition, the draft statutory guidance on Parts 4 and 5 of the 2014 Act will be revised.

Argyll and Bute Council's Position

Argyll and Bute have fully implemented the GIRFEC practice model; the Named Person service and the Child's Plan and as such remains committed to continuing with this work.

Whilst we are aware that some of Part 4 of the Children and Young People (Scotland) Act 2014 cannot now be commenced as planned, the Cabinet Secretary has still to announce whether he will commence other aspects, for example the statutory basis for the child's plan, although this is unlikely. As this time GIRFEC practice across Argyll and Bute remains unchanged.

What does this judgement mean for information sharing?

Whilst the concerns of the Supreme Court are noted, Argyll and Bute are reassured by the Information Commissioners Office (ICO) statement that information sharing for child protection is not affected by the judgement and consequently, will continue to share such information within the framework of the Data Protection Act 1998 and other relevant legislation.

The ICO link below provides clarification on how the judgment impacts upon current information sharing practice in Scotland.

- The judgment on information sharing relates to the information sharing provisions that were intended to come into force under the 2014 Act, not to current practice under GIRFEC policy
- Any sharing of personal information that takes place now or in the future must be done in accordance with the Data Protection Act and the Human Rights Act
- It continues to be legitimate for personal information and sensitive personal information to be shared where the conditions set out in the Data Protection Act are met
- The Authority will want to be confident that policy and practice continues to be in line with relevant legislation

Argyll and Bute Council will continue to work with partners to protect and support children and young people by continuing to:-

- Share information without the consent of the child or young person if the disclosure is necessary in order to protect their vital interests or if the disclosure is necessary for the exercise of a statutory function
- Comply with other data protection principles under the Data Protection Act and will ensure that all information sharing is lawful, proportionate and necessary in order to ensure compliance with human rights and law
- Work with Health colleagues, Police Scotland and other agencies to ensure that any processes in place comply with the Data Protection Act and Human Rights Act
- Provide further communication and clarification as it emerges

In conclusion

Except where a child may be at risk of harm or abuse, information sharing must be proportionate and with informed consent. The Named person should only pass information to other services with consent, and should only receive information from other agencies with consent. If you are in any doubt about sharing information have a discussion with your line manager and record the decision.

It should be noted that nothing in this Supreme Court Judgement or the advice received from the ICO changes the responsibility of staff to refer a child to the Children's Reporter where compulsory supervision may be required. Please refer to the "Guidance on Referral to the Reporter – Information for Partners".

Argyll and Bute have fully implemented the GIRFEC practice model; the Named Person service and the Child's Plan and as such remains committed to continuing with this work, consequently GIRFEC practice across Argyll and Bute remains unchanged.

Key reference documents:

Argyll & Bute Council – GIRFEC

<https://www.argyll-bute.gov.uk/girfec>

Guidance on Referral to the Reporter –
Information for Partners

<http://www.chip-partnership.co.uk/wp-content/uploads/2016/02/Guidance-on-Referral-to-Reporter-.pdf>

Information Commissioners Office

<https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2016/09/ico-statement-on-named-person-scheme/>



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