

Children and Young People (Scotland) Act 2014

Revised Draft Statutory Guidance for Parts 4, 5 and 18 (Section 96)

December 2015

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Revision of the Draft Statutory Guidance for Parts 4, 5 and 18

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Foreword

Following the formal consultation on the draft statutory guidance for Parts 4, 5 and 18 (section 96) of the Act, the Scottish Government issued a response to the independent analytical report in September 2015 and the GIRFEC Team has been involved in a process to revise the draft guidance.

The revision has involved engagement with a range of representative stakeholders through workshop sessions, formal and informal discussions and meetings, and opportunities for a wider group to review and contribute to revised text. This process has also involved work on the Named Persons and Child's Plan Orders. The involvement and support of stakeholders has been invaluable in the revision process.

It is important to note that the guidance is still in draft form. The Orders which are a key part of the legislation, will be finalised and laid before parliament early next year, anticipated January 2016. This draft of the guidance refers to the content of the draft Orders as at November 2015. The content and names of the Orders may be subject to change as part of the Parliamentary process which would result in aspects of the guidance changing. While no further major revisions of the guidance are planned, any necessary amendments will be made prior to the final statutory guidance being published in spring 2016. In addition guidance on how to make and consider complaints about the duties set out in Parts 4 and 5 will be produced.

The revised version of the draft statutory guidance for the Parts 4, 5 and 18 (section 96) of the Act is issued on 1 December 2015 to support public bodies to prepare for commencement of those duties in the Act, which subject to Parliamentary approval, are planned to be commenced in August 2016.

Summary of key changes

Prior to considering the draft guidance you may wish to note the main changes which have been made to the version subject to public consultation.

The overall document is shorter and more focussed than the previous version with most of the practice related examples removed. Some of this content will feature in practice material being developed in partnership with stakeholders.

General Introduction

- Change of tone with more emphasis on the role of children, young people and parents
- Revision of the presentation of the underpinning GIRFEC approach
- Clarification of the role of the Third Sector

- Clearer statement on purpose of the guidance

Wellbeing

- More focussed high level description of the wellbeing indicators
- More emphasis on children's rights and the link to wellbeing
- Explanation of the links between welfare and wellbeing
- Simplified reference to other parts of the Act where wellbeing applies

Named Person

- Material with practice focus removed
- Clearer statements about the distinction between the Named Person service, the identified Named Person and the Named Person functions
- More emphasis on professional dialogue and the integration of the Named Person role in current practice
- Review of material on exceptional groups
- Some modification to Named Person specifications based on changes to the Named Persons Order
- Clarity on the Named Person role in relation to child protection processes

Information Sharing

- Simplified, more focussed with more accessible language
- More structured clarification of processes to follow when considering sharing information

Child's Plan

- Stated more clearly that existing statutory and non-statutory planning processes should fit within the Child's Plan planning framework as far as practicable
- Changed ordering to place the definitions of *responsible authority* at the beginning
- Links between the responsible, relevant and managing authorities in relation to the development and management of the plan further explained
- Further explanation regarding a *targeted intervention* based on a national workshop discussion
- More consistent explanation of the content of a Child's Plan linked to a proposed simplification of the data set
- Added information on the Lead Professional based on a revision of the Child's Plan Order
- Explanation of the role of the Named Person in relation to the preparation and management of the Plan, and the requirement to consult with children and parents
- Repetitive material on information sharing removed
- Simplified and strengthened the explanation of the requirements to transfer management of the plan, with reference to other statutory and non-statutory requirements, eg LAC, CSP and child protection

Scottish Government GIRFEC Team

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1 General Introduction

1.1 Introduction

1.1.1 This is the statutory guidance that accompanies the legal duties in Parts 4, 5 and 18 (section 96) of the Children and Young People (Scotland) Act 2014 (the Act). These parts are about the Getting It Right For Every Child (GIRFEC) national approach to improving outcomes through public services that support the wellbeing of children and young people. The GIRFEC approach has children, young people and parents at its heart, and will help realise the shared ambition of making Scotland the best place to grow up.

1.1.2 The Act is a wide-ranging piece of legislation, containing 18 parts in total and spanning policies that have developed over a number of years including children's rights, children's services planning, kinship care, aftercare, continuing care, corporate parenting, and early learning and childcare. All of these are underpinned by the GIRFEC approach and the Act provides the legislative impetus to bring about transformational changes to working practices across a wide range of public bodies. GIRFEC is rooted in the United Nations Convention on the Rights of the Child (UNCRC) and links with – but does not replace – existing policy and law affecting children, young people and parents, including:

- parents' role and primary responsibility to raise their child
- Data Protection
- Additional Support for Learning
- Curriculum for Excellence
- Child Protection
- the Children's Hearings System
- Self-Directed Support

1.1.3 GIRFEC:

- puts the best interests of the child or young person at the heart of decision making;
- takes a 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; and
- builds on developing strong universal services with additional services brought in where required to meet the needs of children, young people and families.

1.1.4 The GIRFEC approach ensures that services are brought together more effectively to provide help and support for children, young people and their parents when they need it. The approach supports children's and young people's rights, involving children and young people wherever possible in any decisions that affect them and helping services to support parents while respecting parents' rights and responsibilities for bringing up their children. It recognises that most children and young people usually get the support they need from their parents, wider families and communities and from universal services like health and education. However, because children and families can experience difficulties which may affect wellbeing,

the approach ensures that children, young people and their parents have a single point of contact they can turn to if and when they need additional advice or support. The approach recognises parents' role as the primary carers of their children and ensures that parents and families retain control, other than in exceptional circumstances, for example where there are child protection concerns, in which case existing child protection procedures would apply. The approach is based on children, young people and their parents working in partnership with the services that can help and support them.

1.1.5 While a single point of contact will be available through the Named Person service, the GIRFEC approach does not stop children, young people or parents from contacting services directly for advice or support, as many do at present. Access to a single point of contact - the Named Person - is an entitlement for children and young people. However, parents and children are under no obligation under Part 4 of the Act to contact the Named Person, or accept any help or support offered.

1.2 Who is this statutory guidance for?

1.2.1 This guidance is aimed at the strategic leaders and operational managers of organisations that are legally responsible for putting in place and operating Parts 4, 5 and 18 (section 96) of the Act. These organisations are:

- health boards;
- local authorities;
- the proprietors and managers of independent and grant-aided schools and secure accommodation service;
- the Scottish Prison Service; and
- the bodies listed in schedules 2 and 3 of the Act.

1.2.2 They will have to ensure they have the policies, procedures, training and management structures in place to make sure all relevant staff are supported. These organisations must have regard to this guidance in carrying out their functions under Parts, 4, 5 and 18 (section 96) of the Act. (Further information on the nature and structure of the guidance is set out at chapter [1.4](#) below). There will be additional practice materials to inform the operational delivery of the GIRFEC approach.

1.2.3 There will be other organisations, such as scrutiny bodies, those providing education and training, and regulatory bodies who will need to have a clear understanding of this guidance and how it – and the Act itself – affects the duties and functions of some of the public bodies they regularly work with. These other organisations will need to consider the impact the Act and this guidance may have on their own functions.

1.2.4 The guidance will also be relevant to senior managers of third sector organisations where they might contribute to an assessment of wellbeing; where they act on behalf of a service provider or relevant authority in relation to Part 4; or where they are delivering a service or support, or providing assistance in relation to a Child's Plan under Part 5 of the Act. At both national and local level, third sector organisations make a significant contribution to promoting, supporting and safeguarding the wellbeing of children and young people. This contribution will continue under the Act. Third sector organisations may discharge statutory duties on behalf of service providers, relevant authorities, managing authorities or directing

authorities. They will also provide services as part of their independent functions in support of a child's wellbeing.

1.2.5 Practitioners, from statutory, third sector or independent bodies or organisations, who may be involved as a Named Person or Lead Professional or who work in services that may provide support to children, young people and parents, can refer to this guidance to inform their practice. However separate practice materials will be made available for practitioners. This will ensure the approach is delivered consistently across Scotland.

1.2.6 While children, young people and parents may wish to refer to this guidance to understand their entitlement and rights under Parts 4 and 5 of the Act, further specific information will continue to be developed to support their understanding of the Act. This further information is intended to help children, young people and parents to work in partnership with services so that they have access to advice and support when they need it. It will also set out a clear process for them to raise any complaints about functions carried out under Parts 4 and 5 of the Act. This information should underscore the fact 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.

1.3 Background to the GIRFEC approach

1.3.1 The GIRFEC approach has been tested and developed across Scotland over a number of years, during which children's services have become more integrated and child-centred. The 2001 report by the then Scottish Executive, 'For Scotland's Children', concluded: "We need a much more robust approach to putting children and families at the centre of the service network," and the 2005 'Proposals for Action' recognised the importance of better coordination of assessment and planning in support of a child's needs. To develop the practical changes that would be needed across Scotland to address these ambitions, a 'pathfinder' project was set up in Highland in 2006 with the support of the Highland Partnership. Central to the project were common procedures and processes for sharing concerns about a child, recording information, and constructing and implementing a plan for any support needed.

1.3.2 As the pathfinder put GIRFEC principles into practice, it became clear that for universal services to deliver early intervention effectively, children and parents needed a single point of contact in the core universal services so that no child or young person was left without access to advice or support when they needed it. Since parents also said they wanted this single point of contact, the Named Person role was developed.

1.3.3 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 by resolving potential problems at an earlier stage. At the same time, it brought improvements for the services that work with children and families. These improvements included:

- greater clarity about who families could go to when they needed help, thus avoiding the need to tell their stories over and over;
- falls in the number of referrals to the Children's Reporter which meant that fewer children required compulsory state intervention;

- a reduced number of children placed on the Child Protection Register because support to families was given before problems turned into crises;
- the statutory services involved, and their third sector partners, were able to focus resources on those children who needed most support;
- reduced time in meetings for teachers, health professionals, social workers, parents, and children and young people;
- caseload reductions for social work.

1.3.4 Prior to the Act, this approach was adopted to varying degrees across Scotland. The Act ensures key components of the GIRFEC approach are delivered consistently across the whole of Scotland. This statutory guidance is an important part of achieving that consistency, because those exercising functions under the relevant parts of the Act are equally bound to comply with it.

1.4 The Act in context

1.4.1 To put the Act and this statutory guidance in context, it is worth setting out the wider GIRFEC approach to improving outcomes for children and young people in Scotland. The following sections explain the key elements and basic principles of the GIRFEC approach:

Key elements of the GIRFEC approach

1.4.2 GIRFEC connects policy areas which affect children, young people and families, by providing a more coherent overall approach to support, promote and safeguard children and young people's wellbeing. There will always be a need for specialist policies, for example for children living with kinship carers, children living with long term conditions, children affected by domestic abuse, or children affected by trafficking. However, these policies become much more integrated and meaningful for children and their families when they are connected through the GIRFEC approach.

1.4.3 The Act is rooted in the GIRFEC approach, and puts a number of key elements into statute, including the Named Person and the Child's Plan, as described in this guidance. However, as is noted above, the GIRFEC principles underpin a wider variety of other systems, services and initiatives, including Curriculum for Excellence, the Children's Hearings System, the Early Years Collaborative, Early and Effective Intervention, the Whole Systems approach to youth justice, and the redesign of health visiting and school nursing services. GIRFEC is about how services can best support children, young people and families so that outcomes can be improved and delivery made more efficient.

1.4.4 Moreover, it is an approach that recognises the rights of children, as enshrined in the UNCRC, and seeks to give those rights practical expression. The GIRFEC approach is about how practitioners across all services for children and adults meet the needs of children and young people, working together where necessary and supporting families to ensure children and young people can reach their full potential. These principles are supported by the [Common Core of Skills, Knowledge and Understanding and Values for the Children's Workforce in Scotland](#). It is an approach that works through the existing range of services that support children and young people, particularly the universal services offered through health and education, building on existing good practice.

1.4.5 As well as the Named Person and the Child's Plan, the GIRFEC approach includes other elements of good practice. While not statutory, they will support the duties set out in this guidance. There is more about these on the Scottish Government website: www.gov.scot/gettingitright

GIRFEC principles

A child-focused approach

1.4.6 The GIRFEC approach recognises that at different stages of their life each child will have different needs. Services must be responsive to how these needs differ between children, how they change as they get older, in changing circumstances, and whether they can be met through the universal services available to all children and young people.

1.4.7 As children and young people progress through life, many will have their needs adequately met, but some may have temporary difficulties, may live with challenges, including the effects of poverty, disability and/or long term conditions and some may experience other complex issues including neglect or abuse. Sometimes they – and their families – may need support. No matter where they live or whatever their needs, children, young people and their families should always know where they can find help, what support might be available and whether that help is right for them. The GIRFEC approach ensures that anyone providing that support puts the child or young person – and their family – at the centre. At the heart of this approach is the relationship between the family and their child's Named Person.

1.4.8 The Named Person service, as set out in the Act, provides a structured way to ensure that a child-focused approach persists through a child's life. Although the duties apply formally to children and young people between birth and 18 (or beyond if still in school), the Named Person service will have an important impact on supporting the transition to adult services for those children and young people who need continuing service support. Similarly, while the Named Person functions only formally come into effect at birth, midwives supporting pregnant women have a key role to play. The focus on wellbeing pre-birth will be the firm foundation upon which good quality support for children, young people and their families will be built. Midwives will work closely with health visitors so that where continuing support is needed, there should be a smooth transition to the Named Person from birth. (See Annex B for more details about wellbeing pre-birth.)

A holistic understanding of wellbeing

1.4.9 The wellbeing of children and young people is at the heart of the GIRFEC approach, but the key here is that the approach supports families and professionals to work *together* to consider a child's wellbeing. The approach recognises that what a child is achieving, or how healthy they are, may be linked to how safe, or respected, or included they feel. Different services may be able to support one aspect of wellbeing more than another, but it is important that they are aware of all aspects. Recognising when a child needs support and being able to respond when a parent asks about *any* aspect of their child's wellbeing is important if services are to offer appropriate and effective support at the right time.

1.4.10 For that reason, the GIRFEC approach is based on eight indicators of wellbeing. It focuses professionals' and families' attention on how Safe, Healthy,

Achieving, Nurtured, Active, Respected, Responsible and Included a child is. Together, these are sometimes abbreviated to the acronym 'SHANARRI'. This approach to wellbeing has been put into statute and is described in more detail below.

A preventative approach

1.4.11 An essential GIRFEC principle is to support the child, young person and parents at 'the right time'. Whenever feasible, 'the right time' is before a child's wellbeing is adversely affected (known as primary prevention) or as soon as possible after an adverse effect manifests itself (known as early intervention).

1.4.12 'Primary prevention' means providing the child, young person and parents or carers with appropriate supports to help prevent the child or young person from experiencing adversity, instead of only reacting once it has already happened. Three characteristics are often present in effective primary prevention:

- Children, young people, families and communities work together to support each other to improve their quality of life and to provide opportunities for community engagement and involvement.
- Initial support from services tends to be most effective if delivered in the first few years of a child's life (pre-birth to pre-school).
- There is as much support and help in the community for the parents and families as there is for the child directly.

It recognises that, wherever possible, support should prevent problems arising in the first place, and that the way to do this is not simply to focus on children alone, but to consider how to support parents, carers and wider communities too. Primary prevention is usually provided through families, community organisations and universal services, working together to support children and young people.

1.4.13 'Early intervention' means working with families as soon as there are signs of difficulties, and that can mean helping families – and practitioners – to recognise and respond to the early signs of any problems in a child's life. Early intervention can often prevent further or more severe difficulties arising. Early intervention can also prevent the original problem from triggering secondary ones. The Named Person has a key role in providing or coordinating early intervention services.

1.4.14 Early intervention does not apply only to early childhood. It is about recognising that needs can arise at any age. For example, it is still early intervention to act immediately to safeguard and promote the wellbeing of an eleven year-old whose mother has died – or of a teenager whose family life is being jeopardised for the first time by serious domestic abuse. The crucial point about early intervention is not the age at which it is provided, but rather the swiftness with which it happens after the need for any assistance arises.

A joined-up approach

1.4.15 GIRFEC is important for everyone who works with children and young people – as well as for many people who work with parents or other carers who look after children. Practitioners need to work together, with each other and with children, young people and parents, to support families, responding to the immediate and on-going needs of the child or young person. A joined-up approach means that only

those services that are appropriate to support a child, young person or family are involved, reducing unnecessary intrusion.

1.4.16 This means that GIRFEC is an approach not just for those working in services focusing directly on children, but also for those in services with an indirect impact on children. Services that support the wider family or community, or focused on adults can still play a powerful role in supporting children and young people.

1.5 Purpose and format of the statutory guidance

1.5.1 This guidance explains the duties in Parts 4, 5 and 18 (section 96) of the Act as they affect health boards, local authorities, independent and grant-aided schools, secure accommodation providers and the Scottish Prison Service, as well as the bodies listed in schedules 2 and 3 to the Act and third sector bodies providing services on behalf of local authorities or health. Each part of this guidance generally follows the order of the Act, with the exception of the information sharing sections which are brought together for ease of reading.

1.5.2 As this is statutory guidance, the bodies listed in paragraph 1.5.1 must ensure that their policies and procedures take full account of this guidance and the legal requirements set out in the Act. However, while the guidance is designed to support effective and consistent implementation and decision making, it cannot be prescriptive about the requirements for individual children or young people in all circumstances. So while the guidance refers to some examples, these are not meant to be definitive interpretations of the legislation (as might be set, for example, by case law). This guidance explains the principles of the legislation and illustrates how the duties are to be operated in certain situations. Practice materials are already available and more will be developed to further support consistent practice across Scotland.

1.5.3 To properly understand the framework and duties set by Parts 4, 5 and 18 (section 96) of the Act, the guidance should be read as a whole. Individual sections should not be taken out of context or read in isolation from each other or from relevant parts of the Act and the related secondary legislation. Those with statutory responsibilities for carrying out functions under Parts 4 and/or 5 of the Act, and those delivering services on their behalf, should ensure that they are familiar with all the duties and requirements set out in the relevant parts of the Act and secondary legislation, and use this guidance to understand how the duties should normally be applied. However, the guidance is not a substitute for taking appropriate advice on the legal implications of particular situations.

1.6 References to other legislation

1.6.1 Throughout this document, the following terms will be used:

- the Act means the [Children and Young People \(Scotland\) Act 2014](#)
- the 1968 Act means the [Social Work \(Scotland\) Act 1968](#)
- the 1980 Act means the [Education \(Scotland\) Act 1980](#)
- the 1995 Act means the [Children \(Scotland\) Act 1995](#)
- the DPA means the [Data Protection Act 1998](#)
- the 2004 Act means the [Education \(Additional Support for Learning\) \(Scotland\) Act 2004](#)
- the 2005 Act means the [Further and Higher Education \(Scotland\) Act 2005](#)

- the 2007 Act means the [Adoption and Children \(Scotland\) Act 2007](#)
- the 2009 Act means the [Education \(Additional Support for Learning\) \(Scotland\) Act 2009](#)
- the 2011 Act means the [Children's Hearings \(Scotland\) Act 2011](#)
- the 2013 Act means the [Social Care \(Self Directed Support\) \(Scotland\) Act 2013](#)

2 Part 18 (section 96) – Assessment of wellbeing

2.1 Introduction

2.1.1 The purpose of this part of the statutory guidance is to explain what ‘wellbeing’ is in the context of the Act and its associated secondary legislation (known as ‘Orders’).

2.1.2 This part of the guidance is issued under section 96(3) of the Children and Young People (Scotland) Act 2014 (the Act), which says the Scottish Ministers must issue guidance on how the eight wellbeing indicators – Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible and Included (listed in section 96(2)) – are to be used to assess the wellbeing of a child or young person.

2.1.3 This guidance should be read in conjunction with [section 96](#) of the Act (Assessment of wellbeing).

2.1.4 This guidance does not change the framework for making a referral to the Children’s Reporter if compulsory measures of supervision may be required. It should therefore also be read in conjunction with the [2011 Act](#), and [accompanying guidance](#).

2.1.5 This guidance does not change the procedures for responding to child protection concerns, and should also be read in conjunction with the [National Guidance for Child Protection in Scotland](#).

2.1.6 This guidance sits alongside national and local policy guidance on wellbeing in the context of Getting It Right For Every Child (GIRFEC). There is more information on the [Scottish Government GIRFEC website](#).

2.2 Purpose of Part 18 (section 96) of the Act: Assessment of wellbeing

2.2.1 Part 18 of the Act covers general provisions, including section 96, which sets out the required approach to assess a child’s or young person’s wellbeing. This is what section 96 says:

- a) **Section 96(1)** specifies that section 96 applies when making an assessment under the Act relating to the wellbeing of a child or young person (specifically, when assessing whether wellbeing is being or would be promoted, safeguarded, supported, affected or subject to an effect);
- b) **Section 96(2)** lists the eight indicators of wellbeing that should be considered when assessing wellbeing in the context of the Act;
- c) **Section 96(3)** requires the Scottish Ministers to issue guidance on how the indicators in section 96(2) are to be used to assess wellbeing;
- d) **Section 96(4)** stipulates that the Scottish Ministers must consult with specified stakeholders, and such persons as the Ministers consider appropriate, before issuing or revising guidance;

- e) **Section 96(5)** requires a person assessing the wellbeing of a child or young person as mentioned in section 96(2) to have regard to guidance issued under section 96(3);
- f) **Section 96(6)** gives the Scottish Ministers order-making power to modify the list of wellbeing indicators in section 96(2); and
- g) **Section 96(7)** requires the Scottish Ministers to consult with specified stakeholders, and such persons as the Ministers consider appropriate, before making an order under section 96(6).

2.3 Context

2.3.1 Taking a holistic view of the wellbeing of children and young people is at the heart of the GIRFEC approach. GIRFEC has its origins in the United Nations Convention on the Rights of the Child (UNCRC), which outlines the rights of children to have their basic needs met, and to reach their full potential. The UNCRC [general principles](#) of non-discrimination, best interests of the child, right to life, survival and development, and respect for the views of the child, are the overarching rights needed for any and all rights in the Convention to be realised, and as such, should be the foundation for any assessment of a child's or young person's wellbeing. This rights-based approach emphasises the responsibility of all public services and their partners to protect children's rights and entitlements. Further detail about the UNCRC can be found on the [UNICEF](#) website.

2.3.2 Taking a holistic view of wellbeing is not a new concept. It has been evolving for a considerable time, and has involved extensive consultation and deliberation. While it is right that we should strive for every child's wellbeing to be as good as it can be, and there are now widely-accepted targets in terms of child health and development, the Act does not specify the level of wellbeing that should be attained by every child or young person. Wellbeing will be relative, and will be influenced by the child's or young person's individual circumstances and what support they get from their family, community and professional services.

2.3.3 The Act identifies various times when practitioners should undertake a wellbeing assessment using the eight wellbeing indicators set out in section 96(2) based on the considerations set out in section 96(1) of the Act. This part of the statutory guidance sets out what the wellbeing indicators are (section 2.4 below) and what to consider in assessing wellbeing (section 2.5 of this guidance). It should be read in conjunction with practice materials that set out how assessments should work.

2.3.4 Wellbeing is multi-dimensional. A child's wellbeing in relation to one indicator may impact on, and interact with, their wellbeing in relation to other indicators. A child's achievement in school, for example, is not just affected by experiences at school, it is also affected by their experience of being nurtured, their physical and psychological health, and the extent to which they are accepted as part of the community in which they live and learn.

Wellbeing and welfare

2.3.5 Section 96 of the Act refers to eight indicators of wellbeing, described in section 2.4 below. The Act does not alter the references to welfare that already exist

in legislation. Welfare, as it relates to children and young people, is a term that is open to interpretation, but is often used in the context of identifying a need for compulsory intervention under the 2011 Act. In terms of Scottish Government policy on children and families, welfare and wellbeing are different, in that wellbeing is a broader, more holistic concept.

2.3.6 Links between welfare and wellbeing exist across the eight indicators, and while a [child protection](#) response may be required to make sure a child is safe and their immediate welfare needs are addressed, child protection is not something which sits separately from wellbeing. Indeed, a series of low level indicators of wellbeing need (whether obviously related or not) taken together can amount to a child protection issue. Child protection requires taking prompt action to safeguard a child where an assessment indicates that the child may be at risk of significant harm. The child's wider wellbeing should also be assessed to ensure their current and future holistic needs are considered. Appropriate governance, with associated policies and procedures, must be in place to provide a seamless link between child protection and longer term wellbeing considerations.

2.3.7 The relationship between welfare and wellbeing is strengthened by section 95 of the Act, which amends the [1995 Act](#) to ensure that children's and young people's wellbeing is considered by local authorities when exercising certain functions. Under section 95, [a new section, 23A](#) ('Sections 17, 22 and 26A: consideration of wellbeing'), is inserted after section 23 of the 1995 Act. The amendment relates to children who are in need and children who are looked after by the local authority, as defined by the 1995 Act. It also relates to children and young people who are eligible for the provision of continuing care under Part 11 of the Act, for whom a welfare assessment is required.

2.3.8 The new section 23A(2) of the 1995 Act says that the local authority must have regard to the general principle that these functions, which include safeguarding and promoting the welfare of children and young people, should be carried out so that they also safeguard, support and promote their wellbeing. In this context, wellbeing is to be assessed using the indicators listed in section 96(2) of the Act.

2.4 Indicators of wellbeing

2.4.1 Using the GIRFEC principles, the approach to considering children's and young people's wellbeing must be strengths-based, holistic and adaptable enough to take account of stage of development and the complexity of each child's or young person's individual life circumstances. Each child or young person has a right to be safe, healthy, achieving, nurtured, active, respected, responsible and included. When considering the wellbeing of children and young people under the Act, practitioners and organisations must consider each of the eight indicators, in collaboration, wherever possible, with children, young people and their parents.

2.4.2 Section 96(2) of the Act lists the eight [wellbeing indicators](#). When used in the assessment of wellbeing, this is how the indicators should be interpreted:

Safe – protected from abuse, neglect or harm at home, at school and in the community.

Healthy – having the highest attainable standards of physical and mental health, access to suitable healthcare, and support in learning to make healthy, safe choices.

Achieving – being supported and guided in learning and in the development of skills, confidence and self-esteem, at home, in school and in the community.

Nurtured – having a nurturing place to live in a family setting, with additional help if needed, or, where this is not possible, in a suitable care setting.

Active – having opportunities to take part in activities such as play, recreation and sport, which contribute to healthy growth and development, at home, in school and in the community.

Respected – having the opportunity, along with carers, to be heard and involved in decisions that affect them.

Responsible – having opportunities and encouragement to play active and responsible roles at home, in school and in the community, and where necessary, having appropriate guidance and supervision, and being involved in decisions that affect them.

Included – having help to overcome social, educational, physical and economic inequalities, and being accepted as part of the community in which they live and learn.

2.4.3 These indicators are sometimes referred to collectively using the acronym SHANARRI.

2.4.4 In practice, the eight indicators are not discrete, but are connected and overlapping. When considered together, they give a holistic view of each child or young person, and allow the child or young person, and the adults supporting them, to consider strengths as well as barriers to growth and development.

2.4.5 Certain factors such as adequate sleep, play and a healthy balanced diet have a positive impact on all aspects of a child's or young person's wellbeing. Similarly, the effects of poverty and social isolation are examples of influences that can have a negative effect on all the indicators of wellbeing.

2.4.6 Communication is critical to the development of the wellbeing of all children and young people. Any assessment of wellbeing must therefore include consideration of the communication abilities and needs of the child or young person.

2.4.7 Depending on a child's circumstances or health condition, a holistic assessment of wellbeing may need to be supported by specialist assessments. The wellbeing indicators provide a consistent framework within which to consider specialist assessments.

2.5 Section 96: Assessment of wellbeing

2.5.1 The Act refers to assessment of an individual child or young person to determine whether "their wellbeing is being, or would be, promoted, safeguarded, supported, affected or subject to an effect" (section 96(1)). These terms have the following meanings, and form the basis of an assessment:

- a) promoted – actively encouraged or further developed;
- b) safeguarded – protected from harm or damage;
- c) supported – given assistance, approval, encouragement;

- d) affected – influenced, changed; and
- e) subject to an effect – likely to be affected by a set of circumstances.

2.5.2 Wellbeing assessments relating to individual children or young people may be required under Parts 4 (Provision of Named Persons), 5 (Child’s Plan), 6 (Early Learning and Childcare), 9 (Corporate Parenting), 11 (Continuing Care) and 12 (Services in Relation to Children At Risk of Becoming Looked After, etc.) of the Act.

2.5.3 An assessment of wellbeing must seek to identify all the factors in the child’s or young person’s life which may be benefitting or adversely affecting their wellbeing. This will help establish how best to support the child or young person when they experience difficulties. It will include, but is not limited to, recognising individual, family and community strengths as well as difficulties relating to poverty, health, disability or communication needs, and how these needs might be met.

2.5.4 In assessing a child’s or young person’s wellbeing, their age, stage of development and the context of their life with their parents, wider family and community should be considered. Wellbeing assessments should be completed in partnership with the child or young person and their family using the [GIRFEC National Practice Model](#) to identify areas of strength, any wellbeing needs and any action that may be appropriate to help meet the needs identified. The views of the child, young person or their parents may differ from the practitioner’s view and a holistic assessment should take account of all views. Communication or learning impairment should not be seen as a barrier to seeking views.

2.5.5 Practitioners should recognise that children and young people can thrive in different environments. They must therefore be respectful of and responsive to the child’s or young person’s, or their parents’ education, communication capacity, life experiences, socio-economic status, lifestyle, culture and beliefs. This has relevance to all aspects of wellbeing.

2.5.6 If a wellbeing assessment indicates that a child is in need of protection, guidance, treatment or control, and that it might be necessary for a compulsory supervision order to be made to ensure that the child’s wellbeing needs are met, then, as specified in the [2011 Act](#) and in [practice materials](#), a referral should be made to the Children’s Reporter. The Children’s Reporter is responsible for determining whether a Children’s Hearing should be convened. These procedures are not changed by the Act or by this statutory guidance.

2.5.7 Early intervention and a compulsory supervision order are not mutually exclusive in promoting, supporting and safeguarding the wellbeing of a child or young person. The use of compulsion at an early stage may help to ensure compliance with interventions, and prevent wellbeing needs escalating. Parental capacity and willingness to change should be considered in order to assess whether the child’s wellbeing needs are likely to be met by voluntary support or whether a compulsory supervision order might be necessary.

2.5.8 A wellbeing need, or an accumulation of wellbeing needs can lead to a child being at risk of significant harm. The [National Guidance for Child Protection in Scotland](#) sets out in detail how to identify when a child may be in need of protection. It is accompanied by local Child Protection procedures. A risk of significant harm

often relates to how safe, healthy and nurtured a child is, but the other wellbeing indicators may also be affected and should be considered in this context. The requirement to follow Child Protection procedures is not changed by the Act or by this statutory guidance.

2.5.9 Professional dialogue has always been, and will continue to be, a crucial part of wellbeing assessments. If the child's or young person's needs indicate that they may need support from a specialist service such as social work services, agreed referral routes should be used. The Act introduces specific duties in relation to sharing information, particularly with the Named Person service, but compliance with these duties should not introduce unnecessary delays in accessing appropriate specialist services. The information sharing sections of this guidance contain important information on this issue, and should be read in conjunction with this section of the guidance.

2.6 Who should contribute to an assessment of a child's or young person's wellbeing?

2.6.1 Section 96(1) refers to 'a person' assessing the wellbeing of a child or young person. This term covers relevant staff from all those organisations to whom this guidance applies (local authorities, health boards, directing authorities; other service providers and related services as defined in Part 3; relevant authorities as listed in schedule 2, listed authorities as detailed in schedule 3, and corporate parents as listed in schedule 4 of the Act). The term may also relate to individuals working in third sector organisations and independent contractors delivering functions on behalf of any of the organisations listed above.

2.6.2 A wide range of practitioners are required to think about children's and young people's wellbeing in the course of their day-to-day activities when exercising functions under the Act. Practitioners with direct responsibilities for children and young people, and those with indirect responsibilities (for example, those delivering services to parents) may contribute to an assessment of a child's or young person's wellbeing. Any assessment should be carried out in partnership with the child or young person, and their parents where appropriate.

2.6.3 Assessments of wellbeing will be required in many different circumstances. Local authorities, health boards, directing authorities, third sector organisations; other service providers and related services as defined in Part 3; the public bodies listed in schedules 2 and 3, and the corporate parents in schedule 4 of the Act must have local training, policies and procedures in place to make sure their employees can contribute effectively to wellbeing assessments.

2.6.4 Practitioners providing general services in the community (for example, police officers) may have information relevant to children's and young people's wellbeing, which will be important in completing a wellbeing assessment.

2.6.5 Practitioners with a particular focus in a specialist area (for example, cancer specialists or a substance misuse support worker) have specialist assessment tools that they use to analyse information about a specific area of a child's or young person's needs. These specialist assessments form part of the holistic assessment of wellbeing, and should be considered in the context of the

child's or young person's life at home, learning environment and in the wider community.

2.6.6 Nationally-available practice materials will give detail on how a wellbeing assessment should be completed in a range of circumstances.

2.7 The wellbeing of groups of children and young people

2.7.1 Sections 2.5 and 2.6 above relate to wellbeing assessments for individual children and young people, but Part 3 and Part 9 of the Act relate to the wellbeing of groups or populations of children and young people. Wellbeing information relating to children and young people living in a particular area, or who are part of a particular group, is to be used in planning services and reporting on outcomes.

2.7.2 Part 3 of the Act requires local authorities and health boards jointly to prepare Children's Services Plans ensuring that children's and related services in a local area are provided in a way that best promotes, supports and safeguards the wellbeing of children and young people. The local authority and health board are also required to report jointly, on an annual basis, on the extent to which the provision of these services promotes, supports and safeguards the wellbeing of children and young people in the area.

2.7.3 Corporate parenting duties are specified in Part 9 of the Act and its accompanying [statutory guidance](#). These duties apply to the organisations listed in [schedule 4](#) of the Act. Each corporate parent listed in schedule 4 is to understand the definition of wellbeing as described in section 96 of the Act, and to be alert to matters which might adversely affect wellbeing. In order to achieve this, corporate parents should ensure they create a culture where wellbeing is understood in the context of sections 95 and 96 of the Act, specifically in relation to those who are, or have been, looked after children.

2.7.4 When considering the wellbeing of children or young people in a particular group or community, any assessment of needs must be done within the context of the relevant environment for that particular group. As with individuals, assessments of wellbeing at a group or community level must be rights-based (paragraph 2.3.1 refers) and described in terms of the wellbeing indicators (SHANARRI).

2.7.5 Some of the information used in children's services planning and planning by corporate parents may be anonymous, aggregated information from wellbeing assessments for individual children and young people. This should help to identify gaps in service provision and support the development of services to meet local needs. Other relevant information will be gathered at a community level through participation and engagement with local children and young people and their families. Practice materials will provide examples and support for practitioners who need to undertake wellbeing assessments for groups and communities.

3 Part 4 – Named Person

3.1 Introduction

3.1.1 This part of the guidance covers Part 4 of the Children and Young People (Scotland) Act 2014 (the Act) and is issued under section 28 of the Act. The following bodies must have regard to this guidance in exercising the functions conferred by [Part 4](#):

- a local authority
- a health board
- a directing authority
- a relevant authority

3.1.2 The same bodies must also comply with any order issued by Scottish Ministers under sections 19, 30 or 31, and directions, issued by Scottish Ministers under section 29 of the Act. These orders and directions are a way for Scottish Ministers to give further legally-binding instructions about how to carry out functions under the Act.

3.1.3 Any orders made by Scottish Ministers under Part 4 will be subject to Parliamentary procedure as appropriate.

3.1.4 Section 29(3) of the Act says that if any directions are issued under the Act there must be a consultation with the persons it relates to, and any other persons Scottish Ministers consider appropriate. There also needs to be a consultation if a direction is cancelled or changed.

3.1.5 This guidance should be read in conjunction with Part 4 of the Act (Provision of Named Persons), as well as any orders made under Part 4 and any directions issued under Part 4. The guidance follows the same headings used in Part 4 of the Act, but some extra sub-headings have been introduced for further clarity.

3.2 Summary of Part 4

3.2.1 This is a brief summary of the sections in Part 4 of the Act. This guidance goes on to discuss them in more detail later.

- **Section 19** sets out the duty to make the Named Person service available, what that means, who is responsible for providing the Named Person service, who can be a Named Person and the functions of the Named Person.
 - This section includes an order making power to specify more detail on who can be a Named Person. Scottish Ministers have exercised this power and have issued The Named Persons (Training, Qualifications, Experience and Position) (Scotland) Order 2016.
- **Section 20** sets out the responsibility of health boards to make the Named Person service available to children in their area from birth until school age, or school entry.
- **Section 21** sets out which service provider is responsible for providing the Named Person service for children from age five, or school entry, until their 18th birthday.
- **Section 22** states how the Named Person service should continue to be available for young people who remain on a school roll beyond their 18th birthday.

- **Section 23** specifies how communication and the transfer of information should be managed at the points when the Named Person service provider changes.
- **Section 24** sets out the duty of Named Person service providers to publish and communicate information about the role of the Named Person in general, and specifically to children/young people and their parents.
- **Section 25** sets out the duty on service providers and relevant authorities to respond to a Named Person service provider to assist the Named Person in exercising their functions.
- **Section 26** sets out the duties and powers in relation to information sharing, and provides a framework to support the appropriate and proportionate sharing of information by the Named Person and others in support of the Named Person functions.
- **Section 27** gives more detail about what to do if information is shared under Part 4 in breach of a duty of confidentiality.
- **Section 28** specifies who must have regard to the guidance issued by Scottish Ministers ('statutory guidance') and who should be consulted about the guidance.
- **Section 29** specifies who must comply with any directions Scottish Ministers issue, and who Scottish Ministers should consult before directions are issued or changed.
- **Section 30** provides for an order-making power allowing the Scottish Ministers to set out a complaints procedure in relation to this part of the Act. Scottish Ministers have exercised this power and have issued The Children and Young People (Scotland) Act 2014 (Part 4 and 5 Complaints) Order 2016.
- **Section 31** specifies that schedule 2 of the Act lists the relevant authorities for the purposes of Part 4. It also makes clear which authorities section 29 does not apply to, and who therefore do not have to comply with directions of the Scottish Ministers). It also includes an order making power allowing schedule 2 and the exclusion in section 29 to be amended.
- **Section 32** gives an interpretation of the terms used in Part 4 of the Act.

4 Part 4 – Provision of Named Persons

4.1 Section 19

Named Person service

4.1.1 Section 19 sets out what making a ‘Named Person service’ available means, specifies who can be a Named Person (supplemented by The Named Persons (Training, Qualifications, Experience and Position) (Scotland) Order 2016 – referred to as the Named Persons Order), sets out the Named Person functions, and explains who has responsibility for carrying out the Named Person functions. Sections 20, 21 and 22 set out the duties to provide the Named person service and specify who should be the Named Person service provider for different ages and groups of children.

4.1.2 The Act makes the Named Person service available as an entitlement for children from birth to their 18th birthday, and to young people beyond their 18th birthday if they remain on the school roll. The legislation does not apply to children in the regular forces. While the service must be made available, it is up to individual children, young people and parents, whether they wish to engage with the Named Person service.

4.1.3 In summary, the duty to make the Named Person service available lies with the following:

- the health board for children from birth to five years, or school entry (if before or after the age of five years), known as pre-school children within the terms of the Act;
- the local authority for children from five years, (including home educated children), or school entry, until their 18th birthday, or later if still at school, with the exception of those in the categories in paragraph [6.1.2](#);
- a directing authority – notably the manager of a grant-aided school, or the proprietor of an independent school, for children in attendance at that school, or the manager of a residential establishment in which secure accommodation is housed; and
- the Scottish Ministers (via the Scottish Prison Service) for children in legal custody (as defined by section 21(3) of the Act).

4.1.4 The Named Person service is available as an entitlement and the Named Person functions will normally be integrated into established services for children, young people and families (for example, health visiting services, pupil support or pastoral care in primary and secondary schools). Only in exceptional circumstances will the Named Person functions be delivered as a discrete service.

4.1.5 The term, ‘Named Person service’ means the arrangements a service provider puts in place to make a Named Person available and to support the functions of the Named Person. It relates to every child and young person for whom that service provider must make the Named Person service available. The details of these arrangements are outlined in the guidance below, but in summary the Named Person service must:

- make an identified Named Person available for every child and young person for whom the service provider must make arrangements for the provision of the Named Person service;
- ensure that the Named Person meets the requirements in section 19(3) and requirements for qualifications, training and experience as specified in the Named Persons Order;
- ensure that all relevant staff across the workforce are aware of how the Named Person service operates and understand their responsibility to support the Named Person functions;
- make sure children, young people and parents know about the arrangements for the operation of the Named Person service;
- ensure that Named Person service arrangements are made known generally so that other service providers understand how to fulfil their responsibilities to support the Named Person functions as appropriate;
- put in place arrangements to ensure continuity of the Named Person service during absences and holiday periods;
- put in place information sharing arrangements to ensure the appropriate and proportionate sharing of information, by and with the Named Person, within the legal framework to promote, support and safeguard the wellbeing of the child or young person;
- ensure that all relevant staff know how the Named Person arrangements support procedures for referral to the Children's Reporter when it might be necessary for a compulsory supervision order to be made in relation to the child;
- ensure that all relevant staff know how the Named Person arrangements support local child protection procedures, and link with National Child Protection Guidance;
- ensure that the arrangements make clear that where there is a child protection concern, local child protection procedures should be followed without delay;
- ensure that the arrangements make clear that where there is an adult protection concern the local adult support and protection procedures should be followed without delay;
- support the process of initiating preparation of a Child's Plan as soon as reasonably practicable in cases where the child's wellbeing is being, or is at risk of being, adversely affected, and their wellbeing need cannot be met, or met fully, by action other than a targeted intervention;
- put in place partnership arrangements to support the functions of the Named Person in relation to providing, accessing and coordinating support for a child or young person;
- ensure that the culture, systems and practice in relation to the Named Person functions support partnership working with children, young people and parents;
- provide systemic and individual management support to enable each Named Person to carry out their functions effectively;
- ensure that there is clear guidance about how the Named Person and Lead Professional roles operate;
- ensure clarity about the role of adult services who are working with parents, and their relationship with the child's or young person's Named Person;

- provide information about the role of third sector organisations in supporting the Named Person service;
- ensure that the child or young person understands the role of the Named Person and what they can do if they have difficulties communicating or working with their Named Person;
- ensure that children, young people and parents can in exceptional circumstances request the Named Person service to consider the identification of an alternative Named Person;
- ensure parents are able to express their views about the Named Person service;
- make sure children, young people and parents know how they can make a complaint about the operation of the Named Person service; and
- ensure systems are in place to monitor and evaluate the operation of the Named Person service.

The Named Person

4.1.6 Section 19 of the Act requires the Named Person service to make available an identified individual who will exercise the functions of the Named Person on behalf of the service provider. The Named Person will carry out statutory functions on behalf of the service provider with respect to individual children or young people for whom they have been identified as a Named Person. The Named Person will exercise these functions in the context of supporting the wellbeing of the child or young person in their professional role. The Act is clear that responsibility for the exercise of these functions lies with the service provider and not with the individual. This means that the Named Person functions will be carried out as part of the Named Person's duties and will be subject to the same accountability, supervision and support arrangements as other aspects of the individual's duties. Part 4 of the Act does not impose any additional legal responsibilities on any individual who is carrying out the Named Person functions.

4.1.7 The Act outlines two conditions which have to be satisfied for a person to be an identified Named Person:

- First, the individual must be either an employee of the service provider, or an employee of an organisation which exercises functions on behalf of the service provider. In almost all cases it is expected that the Named Person will be a direct employee of the service provider. An example of an exception would be where, as a result of health and social care integration, either a health board or a local authority employs staff who carry out the Named Person functions on behalf of the other organisation. In practice this might be where health visitors are employed by the local authority as part of a social care team, but carry out the Named Person functions for pre-school children on behalf of the health board. There is no intention or expectation that service providers will contract a third party, for example, a third sector organisation, to carry out the Named Person functions on their behalf.
- The second condition refers to the training, qualifications, experience and position of the individual. These requirements are specified by Scottish Ministers in the Named Persons Order, with the intention of ensuring that the key role of Named Person is undertaken by an individual who has the appropriate background and experience, and who holds a position in the service which will allow them to carry out the functions as specified in the Act.

It will be for the service provider to make sure the Named Person service is delivered through individuals who meet the conditions set in the Named Persons Order and who have had training in the role of the Named Person. While for the majority of children and young people, there will be a standard approach as indicated below, there will be situations where the service provider will require to make alternative arrangements to meet the child's or young person's wellbeing needs. The Named Person should, as far as practicable, be someone known to the child or young person and their parents, and who they consider is in a position to offer them information, advice and support if required. While it is important that arrangements meet the needs of children and young people and take account of the views of parents, it is also important that the role is only carried out by individuals in a position to exercise all of the functions expected. While in some instances this may involve having someone in the Named Person role who is not directly known to the child, young person or parents, the Named Person will have close links to staff who do work directly with the child, young person or parents. The Order and guidance provide the framework within which this flexibility may be exercised.

4.1.8 Where the service provider is a health board for pre-school children living in their area, the Named Person will be registered with the Nursing and Midwifery Council or the General Medical Council and fulfil the requirements for training as specified in the Named Persons Order. This Order requires that all Named Persons for pre-school children should have training that includes child development and assessing the speech, language and communication abilities and needs of children, young people and parents. It is anticipated that a Named Person for pre-school children will normally be a registered and practicing health visitor. When a family is enrolled in the Family Nurse Partnership programme then the family nurse should be the Named Person for the pre-school child.

4.1.9 Where the service provider is a local authority, the Named Person for children and young people attending a local authority-managed school is expected to be a registered teacher who holds a promoted post in the school, and who holds, or has held, a post which gives them experience of providing educational and personal support to pupils. This means that for most children and young people the Named Person will be a Head Teacher, Deputy Head Teacher, or Principal Teacher with a remit for providing educational and personal support within the school they attend.

4.1.10 Where the service provider is the local authority and the Named Person service is in place for children not on a school roll, (for example, Gypsy/Travellers, home educated, post school), or where exceptional circumstances relate to a pupil on a school roll, the Named Person should be a local authority post-holder with training and experience in providing educational and personal support to children and young people. An exceptional circumstance could include the situation where the only promoted member of staff in a school is the parent of the child or where the relationship between the parent(s)/child and the school has broken down to the extent that this affects how school staff can exercise the Named Person functions in relation to that child, and/or it would be detrimental to the child's wellbeing. It will be for the local authority to ensure that the individual has the capability and position within the organisation to fulfil the Named Person functions for these children and young people. Where the child is not on a school roll the identified Named Person

should be able to provide the educational and personal support appropriate to the child's circumstances. Educational and personal support should be seen in the broad context of the kind of information, advice and support which children and young people may need in term of their learning experiences, everyday experiences and preparation for the challenges of moving from school into adult life. It is not intended that the Named Person will be identified from specialist services such as social work.

4.1.11 Where the service provider is an independent or grant-aided school, the Named Person should be a registered teacher who holds a promoted post in the school. They should also hold, or have held, a post which gives them experience of providing educational and personal support to pupils.

4.1.12 Where the service provider is a provider of secure accommodation, the Named Person should be the Head of Unit.

4.1.13 Where the service provider is the Scottish Prison Service, the Named Person should be a Unit Manager within the penal establishment, who has responsibility for the care and support of children in legal custody.

4.1.14 The Act specifically states that the role of the Named Person cannot be carried out by the parent of the individual child or young person. This is in recognition of the very clear differences between the role of a parent and the statutory role of the Named Person as stated in the Act. Where an individual's professional role covers their own children, the service provider must make arrangements for the Named Person service to be made available through another individual.

Named Person skills knowledge and understanding

4.1.15 The skills, knowledge and understanding necessary to carry out the Named Person functions will be developed and maintained through undergraduate, postgraduate, or professional training, and in-service training and development. At the heart of this training will be the [Common Core of Skills, Knowledge & Understanding and Values for the "Children's Workforce" in Scotland](#) that cross-refers to the guiding principles of the United Nations Convention on the Rights of the Child (UNCRC). For most children and young people, the Named Person will be a health visitor or a promoted teacher with recognised academic and professional qualifications and the skills, knowledge and understanding required to fulfil the Named Person role as part of their daily functions. However in a small number of situations other suitable qualified practitioners will fulfil the role of a Named Person.

4.1.16 To ensure a universal standard, the Named Person should have a clear understanding of:

- The principles and values underpinning the Getting It Right For Every Child approach
- Wellbeing and the use of the [National Practice Model](#) for the assessment of wellbeing
- What may affect the wellbeing of children and young people and the potential effect on wellbeing
- How to recognise and evaluate a wellbeing need
- How to respond proportionately to a wellbeing need to carry out their functions as outlined in this guidance
- How to work in partnership with children, young people and parents

- How to seek and take into account the views of children and young people and be able to identify when speech, language or communication barriers exist and how to access appropriate support if needed
- How to seek and take account of the views of parents and be able to identify when speech, language or communication barriers exist and how to access appropriate support where needed
- How to seek assistance from within and outside their service, including from third sector organisations that have a primary prevention, early intervention or specialist focus
- Their duties in relation to information sharing under the Act
- How to lawfully record and process sensitive information
- Development, use and management of a chronology
- Recognising when the response to a wellbeing need(s) indicates the requirement for a Child's Plan
- Initiating, reviewing and managing the Child's Plan
- Transferring management of the Child's Plan
- Working with a Lead Professional
- How to recognise when a compulsory supervision order might be needed in relation to the child
- The relationship between a wellbeing need and a child protection concern
- How to use a range of indicators to identify if a child might be at risk of significant harm, and how to follow local child protection procedures
- The range of management and other support available to support their role

Training and development

4.1.17 The Named Persons Order makes clear the expectation that the Named Person should have training relevant to carrying out their functions. It will be for the Named Person service provider to provide support for the Named Person, including guidance on policy, procedures and training. It will be the responsibility of the Named Person service provider to determine the detailed content and nature of delivery of such training, based on the legislative provisions and this guidance. The Scottish Government will work with service providers on the development of materials to support a national standard for the training and development of Named Persons.

Cross border considerations

4.1.18 There will be circumstances where a child lives outside Scotland but attends a school in Scotland, or lives in Scotland but attends a school outside Scotland. The Named Person duties only apply in Scotland. This means that for a child living in Scotland but attending school outside Scotland, the Named Person service will be available from the Scottish local authority where they live, but the Named Person's ability to carry out their functions will be limited to the geographical scope of this legislation.

4.1.19 Where a child lives outside Scotland but attends a school managed by a Scottish local authority, the Named Person service will be provided by the Scottish local authority via the school attended. Where a child lives outside Scotland but attends an independent or grant-aided school in Scotland, the Named Person service will be provided by the directing authority in relation to the school. For children and young people living outside Scotland, but attending schools in Scotland,

the Named Person's ability to carry out their functions will be limited to the geographical scope of this legislation.

The functions of the Named Person

4.1.20 The Named Person functions are designed to promote, support and safeguard the wellbeing of the child or young person. The role will be part of the Named Person's day-to-day work and should build on a partnership approach to working with children and parents. The Named Person's response to any wellbeing need should be proportionate, informed by the child's views, and where possible the views of parents. The support of the Named Person comes into play if the child or parent seeks advice or support, if the Named Person identifies a wellbeing need, or if others provide information or raise concerns about the child's wellbeing.

4.1.21 Section 19(5) outlines a range of functions the Named Person should be carrying out, in relation to the child or young person, or with parents. The principles of early intervention and prevention should underpin these functions. Partnership working with children, young people and parents should be a matter of routine. The Named Person will carry out these functions in the context of their own professional working environment, and also in discussion with other professionals where necessary, from their own and other services.

4.1.22 Named Person functions fall into three main categories:

- a) **advising, informing or supporting the child or young person, or a parent of the child or young person.** This may involve the Named Person providing direct help to the child, young person or parent, either after a request for assistance, or when a wellbeing need has been identified, or following an assessment of the child's or young person's wellbeing;
- b) **helping the child or young person, or a parent of the child or young person, to access a service or support.** The Named Person may feel that the child or young person might benefit from support from a service other than their own. They will discuss the most appropriate approach with other practitioners and seek assistance to support the child, young person or parent to access the service if appropriate; and
- c) **discussing or raising a matter about a child or young person with a service provider or relevant authority.** The Named Person may identify or be made aware of a wellbeing need, which – in their professional judgement – requires advice and support from another agency. The Named Person will discuss this with the child or young person and parents, as appropriate, and may then need to discuss the wellbeing issue with professionals in other agencies, sharing information in order to complete the assessment of the child's or young person's needs. They may also need to share information to get specialist advice about what kind of service or support would be most appropriate for the child or young person.

4.1.23 While the Named Person will be available to offer advice and support as outlined above, children, young people and parents will continue to access advice and support from a range of services as they currently do without reference to the Named Person. It will be for other services or practitioners to consider whether there is a wellbeing need and whether there is relevant information that they ought to

share with the Named Person service (see guidance on information sharing with the Named Person service).

4.1.24 The Named Person should be trained and skilled in carrying out an assessment proportionate to the individual child's or young person's circumstances and the potential wellbeing need being considered. The GIRFEC [National Practice Model](#) is the framework within which to consider the child's or young person's wellbeing. The child or young person and parent should be involved in this process, as a matter of routine practice. Working with, and supporting them, the Named Person will help find solutions and where necessary arrange access to appropriate services and support. This builds on the professional responsibilities of those individuals who are identified as Named Persons, and will form part of their day-to-day work.

4.1.25 The role of the Named Person does not remove any responsibilities from practitioners in other services. Other practitioners directly involved in delivering services to individual children and young people (such as health practitioners or youth workers) may need to contribute to a wellbeing assessment.

4.1.26 Practitioners providing a service to, or coming into contact with, adults who are parents, adults who are siblings of children or young people, and adults who have regular contact with children or young people, also need to consider children's or young people's wellbeing. For example, a GP treating an adult with a chronic health condition must consider whether the adult's condition is affecting the wellbeing of a child or children, as detailed in section 96(1)(d). The GP will then need to decide whether or not to share any information with the Named Person service. This is covered in more detail in the information sharing sections of this guidance.

4.1.27 Where necessary the Named Person should be able to call upon professional support and advice from their own or other services to carry out an assessment. In all cases where the Named Person has information which indicates a possible child protection concern, local child protection procedures should be followed without delay. The Act, associated orders and this guidance does not change guidance and policy in relation to responding to a child protection concern.

4.1.28 Having become aware of a wellbeing need and after analysing information using the GIRFEC National Practice Model, the Named Person should use their professional judgement to respond in the most appropriate way to promote, support and safeguard the child's or young person's wellbeing. This will be a dynamic process and the Named Person may call on the support of colleagues to assist them in their decision making. Seeking and considering the views of the child and parent should be a key part of the process unless doing this is likely to be detrimental to the child's wellbeing. Although every decision will be specific to the individual child and their circumstances, the Named Person is likely to respond in one of the following ways when they receive information about a child's wellbeing or wellbeing needs:

- If analysis of the information, or consideration of the perceived wellbeing need indicates that it is unlikely there will be an adverse impact on the wellbeing of the child or young person, no action is required at this time.
- Where action is required to protect the child or young person from risk of significant harm, they will follow child protection procedures.

- Where the information does not add to, or change, an existing assessment of wellbeing, and existing support for the child, young person and/or their parents is still adequate, no further action is required.
- The information may suggest that:
 - they should offer the child, young person or the parents additional advice or information;
 - the child, young person, or their parents, should be offered additional support, or a change in the kind of support provided by the Named Person service;
 - they should offer to help the child or young person, or their parents help to access advice or support from another service.
- The information may indicate:
 - a need to raise the wellbeing need and share information with another agency to seek assistance to further assess or support the child, or the young person, or the parents;
 - that they should consider if wellbeing needs suggest that a Child's Plan should be initiated, (see [Part 5 – Child's Plan](#)).
- Where a Child's Plan is already in place, they should consider the need to contact the Lead Professional to inform them of the wellbeing need.
- They should consider whether a compulsory supervision order may need to be made and if so, make a referral to the Children's Reporter. This does not alter the duties of other professionals in relation to their ability to make a direct referral to the reporter.

Regardless of the decision taken, the Named Person should record information about the child's wellbeing, or wellbeing need, the analysis that led to the decision and the views of the child or young person, as well as the parent if appropriate.

4.1.29 The Named Person should, as a matter of routine practice, involve the child, or young person and have regard to their views, taking account of their age and maturity, before taking action. There should be few exceptions to this requirement. Exceptions would be in cases involving very young babies or times when involving the child (as described in the Act) would be detrimental to their wellbeing, by, for example, putting their health at risk or exposing them to other risks.

4.1.30 The Named Person should seek and consider parents' views before taking action, but there may be reasonable exceptions to this requirement. Exceptions may apply, for example, where child protection procedures are being followed, or where it would interfere with a criminal investigation, or doing so would be detrimental to the child's wellbeing. The Named Person should also consider and take into account any views expressed by the child or young person in relation to considering the views of the parent. The Named Person will be required to decide whether, given the specific circumstances, it is in the interests of the child's or young person's wellbeing for the parents' views to be considered, even when the child or young person does not want this to happen.

4.1.31 Communication or learning difficulties would not be considered an exception to the requirement to obtain and consider the views of the child or parents. The Named Person should have the training and support to ensure they can communicate effectively with children, young people and parents, and also that the child or young person and parents are appropriately supported to understand and express their views effectively.

Named Person and the reserve forces

4.1.32 A small number of children may become members of the reserve forces before their 18th birthday. The Act stipulates that while these individuals are in training or on duty with the reserve forces and therefore subject to service law, the Named Person functions outlined in this guidance do not apply.

4.1.33 This means that while the individual is subject to service law, the Named Person is not required to promote, support and safeguard their wellbeing by exercising their statutory functions. The reserve forces have a duty of care for service personnel so they will be responsible for an individual's wellbeing while they are on training or duty with them. When the child returns from training or duty with the reserve forces, the requirement to provide the Named Person functions will resume. Clear arrangements should be made between the Named Person service provider and the reserve forces to ensure timely notification of the start of duty and return from duty in individual cases.

Continuity of Named Person service

4.1.34 There will be times when a child's Named Person is temporarily unavailable for a range of reasons, both planned and unplanned, for example, due to illness or planned annual leave. At these times the Named Person's organisation (the service provider) should have continuity arrangements in place to ensure that the Named Person service is still available.

4.1.35 Such arrangements will be particularly important for local authorities and directing authorities when it comes to school holidays. These arrangements should reflect the role and responsibility of parents and families in supporting their children, and will build on existing good practice in dealing with routine, urgent and emergency enquiries during holiday periods. The local authority or directing authority responsible for the Named Person service should be in a position to respond to urgent matters (for example, police or social work involvement in a child protection or criminal enquiry, or requests for information from the Reporter), to provide advice and information, and record non-urgent issues for action if appropriate when the school term resumes. Arrangements need to be proportionate to the likely demands from individuals and populations while still able to fulfil statutory functions. For pupils already known to have on-going wellbeing needs (for example, as a result of disability), individual planning for those pupils should include contingency or alternative arrangements for school holiday periods. For some children with a Child's Plan, a review of the Plan in advance of the holiday break may be appropriate.

4.1.36 Named Person service providers should ensure that anyone carrying out the Named Person role during holiday periods or at other times meets the specified requirements set out in the Act and in the Named Persons Order. Children, young people and parents must be told about how holiday and absence cover arrangements will work.

4.1.37 All Named Person service providers should anticipate periods when a Named Person is unavailable and have arrangements in place to provide continual service. In doing so continuity arrangements will have to consider:

- systems used to store information relevant to the Named Person function;
- systems and processes used to share information with the Named Person;

- alternatives to on-going support normally supplied by the Named Person;
- all Child's Plans managed by the Named Person (acting as Lead Professional); and
- communication with partner agencies, the child and parents.

Planning for these eventualities is important, so it is vital that the process is robust with key stakeholders across the partnership confident in its operation. For this reason, arrangements should be reviewed and tested regularly.

5 Section 20

5.1 Named Person service in relation to pre-school children

Health board provision of Named Person service

5.1.1 This section of the Act places a duty on a health board to make a Named Person service available for every pre-school child living in its area.

5.1.2 A pre-school child is:

- a child who has not yet reached the age of primary school commencement as defined by reference to school commencement dates fixed by the child's local authority of residence (this is generally between four and a half and five and a half years of age); or
- a child who has reached the age of primary school commencement as defined by reference to school commencement dates fixed by the child's local authority of residence but the local authority has consented to the child's commencement at primary school being delayed.

Children who have a deferred school entry should also be considered to be pre-school children for the purposes of this guidance. Parents are not required to send their child to school until they are 'fully five' which means that some children with 5th birthdays after the start of the autumn term in August until February, can defer school entry until the start of the school session after their fifth birthday.

5.1.3 This means that the health board retains responsibility for providing a Named Person service for children who have reached school age but have not started school because their school entry has been delayed or deferred. This is the case whether children attend an early education and childcare establishment for the additional period, or not. In these circumstances, only when the child starts school does responsibility transfer to the local authority of residence, or the local authority which manages the school they go to, or the directing authority of the independent/grant-aided school.

5.1.4 Where parents choose to home educate their child when they reach school age at five years, or later if their starting school date has been deferred, responsibility for providing the Named Person service transfers from the health board to the local authority of residence at the start of the school session when the child becomes of school age.

5.1.5 On the birth of a child, the health board area where the child will normally live (the health board of ordinary residence), has responsibility to make the Named Person service available (see [Establishing the Responsible Commissioner: Guidance and Directions for Health Boards, March 2013](#)). The Named Person should conform to the specifications set out in the Named Persons Order, and outlined in section 19 of the Act, and as supplemented by this guidance. Where wellbeing needs, risks or concerns have been identified during the ante-natal period the Named Person service should review any pre-birth wellbeing assessment ([Annex B](#)).

5.1.6 Where the place of birth is not the health board of ordinary residence, and the child is born in another Scottish health board then the health board in which the

child is born will have responsibility to notify the health board of ordinary residence so that they can make a Named Person service available. The health board must, where reasonably practicable, identify someone before the child is born, who will be the Named Person following the birth – in other words, a prospective Named Person (Annex B). Routinely, the prospective Named Person will be the health visitor identified for the child. Where a pregnant woman has enrolled in the Family Nurse Partnership programme, the family nurse will be the prospective Named Person. They will exercise the functions of the Named Person following the birth of the child, and for as long as the family takes part in the Family Nurse Partnership programme.

5.1.7 It is anticipated that only in exceptional circumstances will the child's health visitor or family nurse *not* fulfil the Named Person functions. An example of an exception might be in a remote and rural situation where it is not practicable for the normally allocated health visitor to be the Named Person and there is not another Health Visitor available locally. In these circumstances a health board may identify an appropriate individual to fulfil the Named Person functions.

5.1.8 Where the Named Person for the pre-school child is not a health visitor (either employed or commissioned by the health board), or a family nurse, then whoever fulfils the function must conform to the specifications in section 19 of the Act, the Named Persons Order, and, as far as reasonably practicable, this guidance. In other words, they must be a registered nurse or midwife with the Nursing and Midwifery Council or be registered with the General Medical Council and have knowledge and understanding of child development and of assessing the speech, language and communication abilities and needs of children, young people and parents. They must be either employed or delivering a function on behalf of the health board, for example as a general practitioner.

5.1.9 Each health board should ensure, as far as reasonably practicable, continuity of provision of an identified Named Person for the child. For example where it is anticipated that a Named Person will be ceasing to provide their Named Person functions for a child then a health board should identify a prospective Named Person who will take on the role when the outgoing Named Person ceases to exercise their functions.

5.1.10 If relevant information is shared with the health board – as Named Person service provider – it must make sure it has arrangements in place to share that information in a timely manner with the relevant Named Person(s). Arrangements to do this should be laid out in local protocols, supported by local training and guidance.

5.1.11 The Named Person service must also support timely information sharing from the Named Person and other services provided by the health board, or on their behalf. Local protocols should also facilitate the timely provision of help and support from other relevant authorities and services to assist the Named Person in fulfilling their functions while ensuring that help and support can also be given to other Named Person service providers or those exercising functions under Part 5 of the Act – Child's Plans.

5.1.12 When a health board becomes aware of a pre-school child becoming resident in their area they must identify a Named Person for the child as soon as reasonably practicable and make the Named Person service available to that child in line with section 20 of the Act.

5.1.13 Any change in the Named Person service provider will mean the outgoing Named Person service must give information to the incoming Named Person service. (See guidance on Communication in relation to movement of children and young people – section 23.)

5.1.14 A health board will cease to have responsibility to provide a Named Person service if it:

- becomes aware that a child for whom it has been providing the Named Person service is no longer a pre-school child;
- becomes aware that a child for whom it has been providing the Named Person service has taken up ordinary residence in another health board area; or
- becomes aware that the child has taken up ordinary residence outside Scotland.

5.1.15 The health board that is the outgoing Named Person service provider has a duty to inform whoever it considers to be the incoming service provider that it has stopped being the service provider and now considers that the incoming service provider has the duty to provide the Named Person service.

5.1.16 When a health board believes that a child has taken up ordinary residence outside Scotland then the Named Person provisions and duties no longer apply. However the health board must review all information the child's Named Person holds and consider whether there is anything to suggest that the child's wellbeing might be compromised if the information was not shared with an appropriate authority outside Scotland. The provisions of this Act do not apply to the further sharing of information, however the child's wellbeing needs should always be considered. Where there are concerns about a child's or young person's wellbeing, the Data Protection Act 1998 (DPA) promotes lawful and proportionate information sharing, while also protecting the right of the individual to have their personal information fairly processed.

5.1.17 In such circumstances, relevant information about the child should be archived and retained in line with the DPA and the Named Person service's records management plan. This is because, if the child returns to Scotland, information likely to be relevant to their wellbeing will need to be shared with their Named Person.

6 Section 21

6.1 Named Person service in relation to children who are not pre-school children

Children from five years, or school entry until 18 years

6.1.1 This section outlines the arrangements for providing the Named Person service for children from five years, or school entry, until their 18th birthday, whether in school or otherwise educated, or having left school.

6.1.2 Section 21 places a duty on local authorities to provide a Named Person service for every child and young person of school age, who lives in their area, with the exception of those who:

- attend school in another local authority area (it is the local authority managing the child's school that is responsible for providing the Named Person service);
- go to an independent or grant-aided school, in which cases the directing authority of the school is responsible for providing the Named Person service;
- are in secure accommodation, where the manager of the establishment is responsible for providing the Named Person service;
- are in the custody of the Scottish Prison Service (SPS), where SPS is responsible for providing the Named Person service; or
- are members of the regular forces, who are exempt from the provisions of this Act.

6.1.3 The Named Persons Order specifies the position, qualifications and experience a Named Person needs to have. For most children and young people of school age, the local authority or directing authority will meet its duty to provide a Named Person service by identifying appropriately qualified and experienced individuals in schools to carry out the Named Person functions.

6.1.4 The Named Person should, as far as practicable, be someone known to the child or young person and their parents, and who they consider is in a position to offer them information, advice and support if they need it. The Named Person should also be accessible to other relevant authorities and services who may wish to raise a concern about a wellbeing need or share information with them. It will be for the Named Person service provider to provide information, systems and processes to support communication between the Named Person and other relevant authorities and services.

6.1.5 In the primary school setting this is likely to be the head teacher, deputy head or principal teacher. They are a familiar point of contact for the child and parents, and may also be easily identifiable for other services.

6.1.6 In the secondary school context, the Named Person is most likely to be a promoted member of staff such as a head teacher, deputy head teacher, faculty head or principal teacher, with experience of providing educational and personal support to pupils.

6.1.7 While the above examples provide guidance, based on the Named Persons Order, it will be for the local authority or directing authority to determine how the Named Person service arrangements can be most effectively delivered in all

circumstances. Arrangements should be clearly laid out in local protocols, supported by local training and guidance. Whatever the arrangements, children, young people and parents should always be able to access their Named Person easily.

6.1.8 In some exceptional situations, the Named Person for a pupil on a school roll may need to be an officer of the local authority or directing authority, rather than a teacher at the child's school. Arrangements should be in place to allow this to happen effectively, and to ensure that whoever takes on the role of the Named Person meets the criteria laid out in Named Persons Order.

6.1.9 Some children are excluded from school for a period, or periods of time. This group of children can have significant wellbeing needs, so it is important that clear arrangements are in place, and made known locally, to ensure that the Named Person service continues to be available in an effective way during any period of exclusion from school.

Named Person service for children who leave school before their 18th birthday

6.1.10 While for most children and young people, the Named Person will be provided through the school they attend, the local authority will also need to make arrangements for children in the area who leave school before their 18th birthday.

6.1.11 The local authority area where the child lives between leaving school and their 18th birthday, is responsible for making the Named Person service available, regardless of the school the child previously attended.

6.1.12 Leaving school will be a key transition point for the individual but will also require a change of Named Person arrangements. In some cases this will be a change of Named Person within the same local authority, but in other cases it will be a change of Named Person service provider, for example, where a child has left school in another authority area, or an independent school. As with all other transition points, the outgoing Named Person service will be required to assess what information needs to be shared with the incoming Named Person service.

6.1.13 If the child attended school in a local authority area different to where they live (their home authority), or was at an independent or grant-aided school, then the outgoing Named Person service needs to let the home authority know that the child has left school and lives in their area. The local authority, which is the incoming Named Person service provider, should tell the child and parent about arrangements to provide the Named Person service until the child reaches their 18th birthday. As noted above, this will be a decision point for the outgoing Named Person service provider in relation to proportionate information sharing.

6.1.14 Some children will leave school before their 18th birthday to attend a further or higher education establishment outside their home authority, which may mean they will live away from home during term time. For the purposes of this guidance, these individuals should be regarded as ordinarily resident within their home authority up until their 18th birthday. It will therefore be the responsibility of their home authority to make the Named Person service available unless exceptional circumstances make it more appropriate for another Named Person service provider to assume responsibility.

6.1.15 It will be a matter for local authorities to decide which posts within their structure can most effectively carry out Named Person functions in relation to 15, 16 and 17 year olds who have left school, and meet the specification in the Named Persons Order. Given the potential needs of this group, the Named Person should be someone with the experience and knowledge to provide educational and personal support to children relevant to their age and the nature of their participation in post-school activity. The Named Person should also be able to give advice and information to other practitioners. They should be able to access and analyse relevant information from the child's previous Named Person or Named Person service, and help children access local support networks if required.

6.1.16 The Named Person arrangements for these children should be proportionate and informed by the child's views. A balance will need to be struck between respecting the rights and wishes of individuals and ensuring that, for those at risk of poorer outcomes, the offer of support through the Named Person service is accessible and meaningful.

6.1.17 Local authorities should ensure these arrangements build on existing support networks to make best use of resources, avoid duplication and make it clear how children can access support if required.

6.1.18 The majority of school leavers will be successfully pursuing further or higher education, training or employment and managing other aspects of their lives with the support of family, friends and community resources. Where this is the case they are unlikely to seek assistance from the Named Person service, or be brought to the attention of the Named Person as needing support for their wellbeing.

6.1.19 Some school leavers will seek, or require, additional support after they leave school. They should be able to access general information or advice, signposting to relevant partner services, help with accessing a partner service, or direct support from a local authority service if needed. Individual children should know how to access the Named Person service directly. Other organisations – who may be in contact with this group of children – will need to be aware of the Named Person service and understand their role in relation to the statutory duties in the Act.

6.1.20 Some individuals in this group may be young parents, in which case the health board will make the Named Person service available for their child. There should be local protocols in place to agree how the Named Person service in health – for the child – and in the local authority for the parent(s) work together to provide effective individual support for the parent(s) and the child where appropriate, avoiding duplication.

6.1.21 In relation to the duty to communicate information about the Named Person service, local authorities will have to consider how this can be most effectively achieved, both when the child leaves, or has left, school, and up until their 18th birthday. It may form part of the existing leaving school arrangements, or a new procedure may need to be put in place. Making information known about the Named Person service for children who have left school should take account of communication difficulties which may be particularly relevant for this group of children.

6.1.22 Given the importance of partnership approaches to supporting this transition stage, information about the Named Person service should be readily

available to the wider community and local support networks. All key services and agencies, including relevant adult services, should be aware of the Named Person service and their responsibilities to support the Named Person role (a suite of practice material is available to support the provision of the Named Person service post school.)

6.1.23 When a local authority, or directing authority, believes a child has taken up ordinary residence outside Scotland when they leave school, the Named Person provisions and duties no longer apply. However, the local authority or directing authority must review all information the child's Named Person holds and consider whether there is anything to suggest that the child's wellbeing might be compromised if the information was not shared with an appropriate authority outside Scotland. The provisions of this Act do not apply to the further sharing of information, however the child's wellbeing needs should always be considered. Where there are concerns about a child's or young person's wellbeing, the Data Protection Act 1998 promotes lawful and proportionate information sharing, while also protecting the right of the individual to have their personal information fairly processed.

Named Person service for children of Gypsy/Travellers

6.1.24 The children of Gypsy/Traveller families are entitled to have the Named Person service made available to them as outlined in the Act. Gypsy/Traveller children are not a homogeneous group, and like other segments of the population may have no requirement for support from the Named Person service, or may have a range of needs in relation to their wellbeing. As is the case with other children and families, where there are no wellbeing needs, the Named Person service is made available, and contact details made known to children and parents. Gypsy/Traveller children do, however, often have a non-standard use of the universal services of health and education, and in some cases can experience difficulty accessing services. For this reason, health boards and local authorities may need to give particular consideration to arrangements to make the Named Person service available to children while they are living in their area. These arrangements should be sensitive to cultural diversity and difference.

6.1.25 Some members of the Gypsy/Traveller community are generally settled in one area on a full-time basis. If this is the case, arrangements should reflect this. Where families use the universal services of health and education, arrangements for making the Named Person service available as outlined in this guidance should apply. Where there are concerns about access to, or take up of, services, then, as with other user groups, health boards and local authorities should ensure that services are accessible and delivered so that any cultural, language, or other issues do not get in the way of engagement.

6.1.26 For Gypsy/Traveller families who normally live in a particular area for significant parts of the year, and travel for only a few months, it is likely that the arrangements outlined above will be appropriate while they are resident, with additional, proportionate arrangements being put in place while they are absent from the area. In discussion with the child and parents, if the absence from the area is for a set period of time, with an anticipated return to the same area, then the health board or local authority of normal residence should retain responsibility for the Named Person service: in other words, there will be no need for a change of Named Person service provider.

6.1.27 Where families have a less predictable pattern of residence and travel, the health board or local authority of normal residence, will have to decide, in discussion with the child and parents wherever practicable, how the Named Person service can be made available during residence, and effectively transferred while the family is travelling in other parts of Scotland. In some cases, it will be for health boards, or local authorities (depending on the age of the child) to make sure they are made aware when children arrive in their area, and who will need to have the Named Person service made available. Local authorities or health boards will also need to make information available – in appropriate ways, to tell Gypsy/Traveller families how they can access the Named Person service while they are living in that area.

6.1.28 While children and parents are travelling, they should be able to contact the Named Person within their home area if they need to, or if more appropriate, they should be able to seek help from the Named Person service in the area they have travelled to. In such circumstances it is expected that communication between the 'home' and 'away' Named Person services will establish how best to support the child and parents. This may include advising the current Named Person service provider that responsibility for providing the Named Person service has transferred and asking them to consider what information they should transfer to the new service provider within the terms of the Act.

6.1.29 Relevant information about the arrangements for the Named Person service for Gypsy/Traveller children should be readily available to the wider community and support networks. All key services and agencies, including relevant adult services, should be aware of the Named Person service and their responsibilities to support the Named Person role. Practice material will be developed to support local authorities and health boards to consider the particular needs of Gypsy/Traveller children.

Named Person service for children who are home educated

6.1.30 As the Act makes provision for the Named Person service to be made available to all children, local authorities will need to identify a Named Person for those children who do not attend a public or independent school, as a result of their parents fulfilling their duty to educate their child by other means, namely education at home. The right of parents to home educate is unchanged by this Act, and any arrangements to put in place the Named Person service should take account of the [Scottish Government guidance to local authorities on supporting home education](#).

6.1.31 Parents have the right to choose to home educate without seeking consent from the local authority in the following circumstances:

- the child has never attended a local authority school;
- the child has never attended a local authority school in that authority's area;
- the child is being withdrawn from an independent school;
- the child has finished primary education in one school but has not started secondary education in another local authority or independent school; and
- the school the child has been attending has closed.

6.1.32 When a child reaches school age, and starts school, the Named Person service transfers from the health board to the local authority of residence, or to the directing authority of a grant-aided or independent school. When a home educated child reaches school age, the health board, as the outgoing Named Person service,

must tell the local authority, as the incoming Named Person service, that the health board no longer has responsibility in relation to the individual child. In order to transfer responsibility for provision of the Named Person service, the health board will need to tell the local authority of residence the child's name and address, who the child's parents are and any relevant information about the child's wellbeing. This is explained in more detail in paragraph 10.15.

6.1.33 Health boards and local authorities will need to ensure there is effective transfer of responsibility for the Named Person service in these circumstances, and that information is shared proportionately in line with the requirements set out in section 23 of the Act, and as supplemented by this guidance.

6.1.34 As already discussed, there are other points in the child's school life when parents may choose to home educate without seeking the consent of the local authority where they live. As well as the arrangements between the health board and the local authority outlined above, arrangements will also need to be in place to take account of these other circumstances, so that the outgoing Named Person service, can fulfil the duty to inform the incoming Named Person service provider. This will also mean that the incoming service provider can tell the child and the parents of the availability of the Named Person service. This is likely to include the need for clear protocols:

- within local authorities at the primary/secondary transition point;
- in the event of a school closure;
- between local authorities; and
- between independent schools and local authorities.

6.1.35 In identifying who will carry out the Named Person functions, any arrangements must comply with the Named Persons Order in relation to training, qualifications, experience and position. These arrangements should build on what is already in place to support children who are home educated, in line with existing national guidance.

6.1.36 When a local authority becomes aware that a child of school age is being home educated, they will, as soon as practicable, need to tell the child and parents about the arrangements in place for contacting the child's Named Person. They should let the child and parents know that the service is available as an entitlement. They should also tell them that any further engagement – beyond the local authority's responsibility to ensure that suitable and efficient education is being provided – will only occur if the child or parent seeks advice or support, or if someone else raises concerns about the child's wellbeing with the Named Person service.

6.1.37 Where a child has previously been enrolled at a local authority school, parents have the right to seek permission from the local authority to withdraw the child from school to home educate. In considering a parent's request to withdraw a child from school (working through procedures outlined in national guidance), the local authority should tell the child and the parents about arrangements for making available the Named Person service for home educated children.

Named Person service for other children not in school

6.1.38 There may be other children who do not attend school regularly. Examples may include children with chronic, life-limiting or life-threatening medical conditions, children fleeing domestic violence or trafficked children. For any child experiencing interrupted learning, the health board or local authority should consider how best to meet these children's entitlement to have access to a Named Person. This should take account of any legislation or national guidance which may apply.

More than one Named Person involved with a family

6.1.39 If there are children of different ages in a household, more than one Named Person may be available to a family. In some circumstances, where, for example, there are pre-school and school-age children, more than one Named Person service provider will be involved. Some families may have no need for any additional support for any of the children from their Named Persons. In other cases, one or more of the Named Persons for different children in the same family may have an important role to play. Each Named Person should carry out their functions in respect of an individual child, but information which indicates a concern about the wellbeing of one child in a family may have relevance to the Named Person for another child within that family. There is a duty to communicate information to a Named Person where it is likely to be relevant to their functions, so where appropriate and proportionate, there should be dialogue between Named Persons for different children in the same family.

6.1.40 In some cases, the parent or parents and their child, may have a Named Person service available to them (when one or both parents are under 18 or still in school). This will almost always involve two different Named Person service providers, with the parent(s) Named Person provided by the local authority, and the child's by the health board. As noted above, there should be clear protocols for information sharing between the respective Named Person services where there are wellbeing needs.

6.1.41 In all these circumstances, the key principle which should guide practice is that children and parents should have easy access to an identified individual who can respond to their needs. Where more than one Named Person is involved, there must be processes in place to ensure that proportionate information is shared if required.

7 Section 22

7.1 Continuation of the Named Person service in relation to pupils beyond their 18th birthday

7.1.1 The Named Person service is available for all pupils who remain at school (in other words on the school roll), beyond their 18th birthday until they leave school. An individual in this position is referred to for the purposes of the Act as a young person.

7.1.2 Local authorities will have to continue to make the Named Person service available to every young person who attends a school under their management until the young person leaves that school. This duty also applies to the proprietors of independent and managers of grant-aided schools.

7.1.3 Arrangements to provide the Named Person service will most likely be a continuation of arrangements that were in place in the school before the young person reached their 18th birthday.

7.1.4 If a young person starts at a school managed by a local authority or which is an independent or grant-aided school, after their 18th birthday, the service provider should make the Named Person service available to them until they leave the school.

Guidance on **sections 23, 26 and 27 relating to information sharing duties within Part 4** is provided in chapter [10](#).

8 Section 24

8.1 Duty to communicate information about the role of Named Person

8.1.1 Each service provider must publish information they consider to be appropriate about the Named Person service they provide. This duty applies to:

- the health board;
- the local authority;
- the manager of each grant-aided school;
- the proprietor of each independent school;
- the manager of secure accommodation; and
- the Scottish Prison Service.

8.1.2 There are two aspects to the duty to communicate information.

- The first is a duty to provide general information about how the service provider carries out its functions under Part 4, how the Named Person functions work and the general arrangements for contacting Named Persons. This would be for children, young people, parents, the general public and service providers listed in schedule 2 as well as third sector organisations and any other relevant agency. The service provider can do this as they see fit, including providing any extra information they think will be helpful in their local context.
- The second aspect of the duty to communicate information about the Named Person service, relates to providing information directly to the child or young person, and the parents about how to contact the Named Person.

8.1.3 All published information should be easily understood (written in plain English) and accessible to a wide and varied audience. Different formats and languages should be available on request.

8.1.4 Published information should make it clear how the service is to be contacted and what the service can and cannot do as part of its statutory functions. This should include making it clear:

- who the Named Person service provider is;
- which categories of children (for example, pre-school children, school age children in attendance at an establishment) the service provider is responsible for in relation to Named Person arrangements, and the exceptions (set out in section 21 of the Act), so that services or individuals are always directed to the correct service provider;
- what functions the Named Person carries out and how they do this;
- who acts as Named Person and for which children or young people. This should describe the roles within the service, rather than the named individuals (it will be for the service provider to decide whether or not to provide individual names in some circumstances);
- how the Named Person service will be provided during holiday periods, or if a Named Person is unavailable;
- how the Named Person role is supported through local protocols and procedures; and

- how children, young people and parents can complain about the Named Person service.

8.1.5 As most Named Person service providers already produce general information about their service, information about the Named Person service is likely to be published through existing effective communication plans and channels. The information should be prominent, accurate, current, accessible and available on request in alternative formats and languages.

8.1.6 All staff working for the service provider should be aware of the information sources and be able to direct individuals or services to the information as required. This applies not just to those directly involved with the Named Person service, but also including those who provide services to parents and other adults. It should also extend to staff who provide services on behalf of the service provider, contracted or commissioned services, or services provided by a third party by mutual agreement. This is an important part of developing and providing the Named Person service. It will call for awareness raising and training for a wide range of staff, and an effective communication strategy built on existing good practice.

8.1.7 The second aspect of the duty to communicate information about the Named Person service means that information specific to the child or young person must be communicated as soon as reasonably practicable when the service provider becomes responsible for the Named Person service, and when there is a change of Named Person or a change in the way children, young people and parents contact their Named Person.

8.1.8 The Act does not set specific timescales for telling the child or young person or their parents about the Named Person service, or about changes to that service. However, information is expected to be communicated within 10 working days after the new arrangement is put in place, unless there are good reasons for this to take longer. In some cases where the service provider can anticipate the need to communicate, it should be possible to communicate the information more quickly to support service continuity. This might be the case for predictable transitions, for example, from primary to secondary school, or where the Named Person is leaving their current post and this is known in advance. As a matter of good practice, this information should be in writing to the child or young person, and their parents, unless an alternative format is agreed to be more appropriate for the individual child or young person, or their parents. This can include adding the information to other communications or correspondence going to the child, young person or parents, as long as it meets the requirements of the Act. If the child or young person, and their parents, have any particular communication needs, these should be taken into consideration, for example, translation, easy read format or braille.

8.1.9 The service provider must ensure that communication with children or young people, and their parents, is a routine process at recognised transition points such as:

- birth of a child;
- health board to local authority or independent school at school entry, or school age;
- transfer from primary school to secondary school;
- school leaving date if before the 18th birthday;

- first notification that a child or young person has moved into the health board or local authority area;
- enrolment at a school managed by the service provider;
- transfer into or out of secure accommodation or the custody of the Scottish Prison Service; and
- the start of new Named Person service arrangements due to staff changes, absence or other circumstances which necessitate a change in the identified individual carrying out the role.

Where suitable processes are not already in place, new ones should be considered.

8.1.10 The information the child or young person, and their parents, get should include:

- the name of the service provider responsible for providing the Named Person service;
- the name of the individual who will carry out the Named Person functions for that child or young person;
- how the Named Person can be contacted;
- what the service provider will do in exceptional circumstances where the child, or parent, has difficulty working or communicating with their identified Named Person or where there is a breakdown in relationships with their identified Named Person;
- how children, young people or parents can, in exceptional circumstances, request consideration of the identification of an alternative Named Person; and
- how complaints can be made if they are unhappy with how the Named Person service is being carried out.

9 Section 25

9.1 Duty to help Named Person

9.1.1 This section of the Act places a duty on a service provider (explained in [section 32](#) of the Act) or relevant authority (listed in [schedule 2](#) to the Act) to comply with a request from a Named Person service provider to help a Named Person carry out their functions.

9.1.2 This power is expected to empower the Named Person service provider to enter into collaborative discussion with other service providers and relevant authorities in order to address wellbeing needs. It is not intended that one organisation will use it to tell another what to do.

9.1.3 When asking a service provider or relevant authority for help by doing a certain thing to support, promote or safeguard the wellbeing of a child or young person, a Named Person service should be specific in saying what wellbeing need is to be addressed and, where possible, what outcome they anticipate. This will allow the request to be considered thoroughly and should promote professional dialogue to address wellbeing needs.

9.1.4 This power may be used to make requests for help relating to a child, young person, parent or significant individual where the wellbeing of the child may benefit by the help requested. The help a service provider or relevant authority may provide could include: undertaking an assessment; providing a service; changing how a service is provided; providing information; making a resource available; or changing the way a resource is provided.

9.1.5 A service provider or relevant authority must comply with a request for help from a Named Person service provider unless doing so would:

- be incompatible with other duties of the service provider or relevant authority, (for example, not part of the service they provide, not within their power or responsibility to provide, or would conflict with an existing legal obligation they must comply with); or
- unduly prejudice the exercise of any function of the service provider or relevant authority, (for example, compromises equity of provision).

9.1.6 When considering a request for help from a Named Person service provider a service provider or relevant authority should consider the potential effect on the wellbeing of the child or young person. They must do this taking into consideration all the wellbeing indicators. This may be of particular significance when prioritising the provision of a service or resource, for example;

- when a waiting list exists but the request for help is urgent; or
- when being asked to provide an extraordinary resource.

9.1.7 If a service provider or relevant authority turns down a request for help from a Named Person service provider, they must be very clear why they have done so.

9.1.8 Named Person service providers should have processes and procedures in place to make requests for help under this part of the Act. If a request for help to meet a wellbeing need is turned down, or some alternative help is suggested or

offered to them, there should always be an opportunity to discuss this with other service providers and relevant authorities.

10 Sections 23, 26 and 27 – Information sharing duties

10.1 Integrating information sharing duties into current practice

10.1.1 Part 4 of the Act creates duties to share information within the established framework of Scottish, United Kingdom and European law including the Data Protection Act 1998 (the [DPA](#)) and the European Convention on Human Rights ([ECHR](#)). Children's and young people's rights are also clearly set out in the United Nations Convention on the Rights of the Child ([UNCRC](#)). This means that the handling, storage, processing, sharing, and retention of information by all service providers, relevant authorities and those providing services on their behalf must be legal, and must consider the principles and boundaries not only of data protection and human rights but of children's rights as well.

10.1.2 Information recorded by Named Person service providers and relevant authorities should, like all other information they handle, be stored, processed and shared legally. This also means keeping a proper record about decision making (in relation to sharing information) and about what information is shared with whom. Practice suggests that most of the information that must be shared under Part 4 of the Act is already being shared within the current legal framework. This Part of the Act does not change the type of information being shared and received by Named Person service providers. However the Act will increase consistency in practice and this is likely to mean that more information is shared with and by Named Person service providers and relevant authorities. Service providers, such as health boards and local authorities currently store, process and share personal and sensitive information, sometimes without consent. Processes should be in place to ensure the fair and lawful storage, processing and sharing of this information.

10.1.3 A lot of the information the Act says must be shared and recorded is in existing, routine records like health visiting records and education pastoral care notes. Information sharing requirements introduced by the Act should become a part of the regular procedures and protocols for storing, processing and transferring such routine records.

10.1.4 The Information Commissioner's Office (ICO) Guide to Data Protection and their Data Sharing Code of Practice, (see section 10.2 below) should be used to support the governance of data sharing between partner organisations. More guidance about integrating information sharing duties into current practice will be provided through practice materials.

10.2 The Data Protection Act 1998 and the Information Commissioner's Office Code of Practice

10.2.1 The general principles of information accuracy, relevance, proportionality and appropriateness are prescribed by the Data Protection Act 1998 (DPA) and should be considered when information is shared. The DPA has eight principles relating to personal data. It must be:

- fairly and lawfully processed;
- processed for specified lawful purposes;
- adequate, relevant and not excessive;

- accurate and where appropriate, up to date;
- kept no longer than is necessary;
- processed in accordance with the individual's rights;
- secure; and
- only transferred outside the European Economic Area with adequate protection.

[Read the ICO's Guide to Data Protection](#)

10.2.2 The ICO's Data Sharing Code of Practice provides practical advice to all organisations – whether public, private or third sector – that share personal data, and covers systematic data sharing arrangements as well as ad hoc or one off requests to share personal data.

[Read the ICO's Data Sharing Code of Practice](#)

10.2.3 Adopting the recommendations in the Code will help organisations to collect and share personal data in a way that complies with the law and is fair, transparent and in line with the rights and expectations of the people whose data is being shared.

10.3 Article 8 of the ECHR – right to respect for private and family life

10.3.1 Article 8 of the European Convention on Human Rights (ECHR), giving everyone the right to respect for their private and family life, home and correspondence is especially relevant to sharing personal data. The right to privacy in Article 8 is a qualified rather than absolute right. Public authorities can share information if it is lawful and proportionate to do so, but each case must be considered carefully to assess what is lawful and proportionate in the particular circumstances.

[Read about the ECHR](#)

10.4 United Nations Convention on the Rights of the Child (UNCRC)

10.4.1 All Articles of the convention apply to all children (read the UNCRC), but Articles 3, 12 and 16 are particularly relevant to the information sharing sections of the Act.

- **Article 3** – The best interests of the child must be the primary consideration in all actions concerning children.
- **Article 12** – Every child who is capable of forming their own views has the right to say what they think in all matters affecting them, and to have their views given due weight in accordance with their age and maturity.
- **Article 16** – Every child has the right to privacy. The law should protect the child's private, family and home life.

10.4.2 Using this established framework, the rest of this chapter provides guidance on how to interpret the provisions and duties in the Act. How the information sharing duties apply in practice to different situations is explored in practice materials.

10.5 Information sharing duties in relation to a Named Person service Part 4 sections 23, 26 and 27

10.5.1 The information sharing provisions in Part 4 are intended to support better outcomes for children and young people. Duties and responsibilities are set out in:

- **Section 23** – Communication in relation to the movement of children and young people
- **Section 26** – Information sharing
- **Section 27** – Disclosure of information

This part of the guidance addresses sections 26, 27 and 23 in that order.

10.6 Information sharing – section 26

10.6.1 Section 26 covers the sharing of information by the Named Person service provider, other service providers and relevant authorities (as defined in section 31). It also applies to those performing a function on behalf of these bodies, for example, the third sector and independent or grant-aided contractors. It sets out the duties and powers in relation to:

- Sharing information with a child's or young person's Named Person service provider.
- The child's or young person's Named Person service provider sharing information.
- What needs to be considered before sharing information.

10.6.2 The established framework for information sharing can seem complex but it is a familiar one given that it applies to all existing information management and data processing by public bodies and those who provide services on their behalf. The law and the data protection principles should be applied to information being processed and shared in relation to the Act as it is to other existing personal information processed and shared within and between organisations. Much of the information sharing envisaged under Part 4 of the Act is already taking place fairly and lawfully between service providers, relevant authorities and those who provide services on their behalf as part of current functions. The Act puts information sharing onto a firm and transparent statutory footing, supporting consistent and fair application of all legislative requirements and recognised good practice.

10.7 Information sharing with the Named Person service

10.7.1 **Sections 26 (1), (2) and (10)** of the Act say service providers, relevant authorities and those providing services on their behalf must share information with the Named Person's organisation (Named Person service provider) if these three tests are met:

- the information **is likely to be relevant** to the exercise of the functions of the Named Person in relation to a child or young person as laid out in section 19;
- the information **ought to be provided** for the purpose of the exercise of Named Person functions; and
- that sharing this information with the Named Person service provider would **not prejudice the conduct of a criminal investigation or the prosecution of any offence.**

If these three tests are met, and there are no other legal restrictions, then the Named Person service provider must be given relevant and proportionate information to help an identified Named Person carry out their functions.

10.7.2 The information is **likely to be relevant** to the exercise of the functions of the Named Person where an information holder considers that the information is likely to help the Named Person promote, support or safeguard the wellbeing of a child or young person by:

- a) advising, informing or supporting the child or young person, or a parent of the child or young person;
- b) helping the child or young person, or a parent of the child or young person, to access a service or support;
- c) discussing, or raising, a matter about the child or young person with a service provider or relevant authority; or
- d) other functions specified by the Act (or any other enactment) that a Named Person carries out in relation to a child or young person.

10.7.3 The information holder, working within their organisational structure, will need to use their expertise and professional judgement to decide what, if any, information is likely to be relevant to the functions of the Named Person.

10.7.4 The test to determine whether information **ought to be provided** is in two main parts:

- a) **Views of the child or young person – sections 26 (5) and (6):** The information holder must, where reasonably practicable, seek and take into account the views of the child or young person. In taking account of their views consideration should be given the child's or young person's age and maturity. This should happen in all but exceptional circumstances and the outcome of this process should be recorded. Examples of where it might not be reasonably practicable to obtain the views of the child or young person may be because: the child cannot be found; the child is unable to express their view; or because obtaining the views would not be possible without compromising the child's wellbeing. The information holder will need to be able to explain why they did not seek and consider the child's views.

If the child is able to say –with appropriate communication support – whether they want information to be shared about them, then their views and privacy should be respected. This does not, however, mean having to comply with the child's wishes. It is for the information holder to decide if information ought to be shared. While the information holder, the child and, as appropriate, the parents will usually be working in partnership, the information holder will not always be able to comply with the child's wishes. Where the information holder makes a decision to share specific information against the wishes of the child they should record what that information is, what the child's views are, and why they decided to share the information.

Proper assessment of the child's or young person's speech, language and communication abilities and needs would help services to determine their communication competence.

It is routine good practice to seek parents' views about information shared, unless it would be against the child's wishes, where they are considered capable of making that decision, or where seeking the views of the parent may be detrimental to the child's wellbeing. Parents' views should be recorded if they have been sought and expressed. When the information shared is specific to a parent or third party then – in line with the ICO's Data Sharing Code of Practice – they should be told what has been shared and with whom, if it is appropriate and safe to do so. This in line with the 'fair processing' requirement of the Data Protection Act 1998.

- b) **Likely benefit – section 26 (7)**: The information holder must consider whether the likely benefit to the wellbeing of the child or young person outweighs any likely adverse effect that could result from sharing the information. In weighing this up and reaching a decision, the information holder should use their judgement, experience and professional guidance. Sharing information is a duty on organisations; practitioners who have devolved responsibility to share information should be able to seek out and be provided with appropriate advice and support where required.

10.7.5 Information should not be shared if the information holder considers that this would **prejudice the conduct of a criminal investigation or the prosecution of any offence**. Such circumstances will be rare and will involve close partnership working with Police Scotland and the Crown Office Procurator Fiscal Service. If information is not shared, the information holder will need to consider the likely impact on the child's wellbeing.

10.8 Sharing information if all tests are met

10.8.1 If all tests are met, and there are no other legal restrictions, the information holder can conclude that the relevant and proportionate information they have identified must be shared in order to comply with the duties of the Act. In other words, they will have:

- Identified information likely to be relevant to the Named Person functions.
- Where reasonably practicable, sought and listened to the views of the child or young person about sharing information (taking into account their age and maturity).
- Sought the parents' views about sharing information, except if it was contrary to the child's views or where it was likely to be detrimental to the child's wellbeing.
- Decided that the likely benefit of sharing the information outweighs any likely adverse effect on the wellbeing of the child or young person.
- Have concluded that sharing the information would not prejudice the conduct of a criminal investigation or the prosecution of any offence.

10.8.2 If any concerns arise that the child may be at risk of significant harm, it is essential that child protection procedures are followed immediately and Police and / or Social Work contacted without delay.

10.9 Sharing Information within an organisation providing a Named Person service

10.9.1 There are times when information relevant to the Named Person functions is held elsewhere in the same organisation, or in a service delivered on their behalf. Organisations must make sure that in these circumstances, information is shared as appropriate. An example of this would be where a service delivered on behalf of a local authority, such as housing or a substance misuse service, becomes aware of information likely to be relevant to a child's wellbeing. They must share that information appropriately and as described in guidance on information sharing with the Named Person service.

10.10 Sharing information by the Named Person service provider

10.10.1 **Section 26 (3) and (4)** says that the Named Person service provider must share any information they consider relevant with another service provider, or a relevant authority listed in [schedule 2](#) to the Act or those providing services on their behalf. Before deciding to share information with others the Named Person service provider must consider whether:

- it is **likely to be relevant** to the exercise of the functions of the service or authority which affects or may affect the child or young person's wellbeing;
- it **ought to be provided**; and
- if sharing the information would **prejudice the conduct of a criminal investigation or the prosecution of any offence**.

10.10.2 See guidance on Information Sharing with the Named Person service (chapter [10.7](#)) for the general tests that apply when considering information sharing.

10.10.3 This would arise when the Named Person service provider – as the information holder – believes that giving specific information to another Named Person service provider, a relevant authority or those providing services on their behalf, will or may be relevant to their role in supporting the wellbeing of a child or young person. In all but exceptional situations, the child or young person, and, as appropriate, their parents, will be involved in the decision to share this information. Professional judgement based on an understanding of wellbeing, experience, training and information about the child and their circumstances will be key to identifying wellbeing needs, and weighing up whether the sharing of relevant information is likely to affect wellbeing. In some cases, a single observation or incident may result in a wellbeing need being identified and prompt consideration of sharing information. In other situations, a range of factors may either heighten or reduce a perceived wellbeing need and any related consideration about sharing information. A wellbeing need for one child may not be considered to be a need for another child – it will depend on the individual child's age and circumstances. For example, after considering a child's needs, circumstances and the three information sharing tests, the health board, as Named Person service provider for a pre-school child, may conclude that it should share specific information with the child's early learning and child care provider in order to help them meet the child's early learning needs. This could also be a partnership nursery providing a service for the child on behalf of the local authority.

10.10.4 Named Person service providers should cooperate with other service providers and relevant authorities to ensure they know what support is available for children, young people and families and who provides that support. This includes support provided on behalf of service providers and relevant authorities, for example, by third sector providers. This is essential in considering which service provider or relevant authority it is appropriate to share information with under section 26.

10.11 Necessary or expedient sharing of information by the Named Person service provider

10.11.1 Most information sharing by the Named Person service provider will take place under **section 26 (3)** to assist another service provider or relevant authority to affect the wellbeing of that child or young person. In addition **sections 26 (8) and (9)** give the Named Person service provider power to share information with a service provider or relevant authority if it would help them carry out any of their own Named Person functions. This means that where the Named Person service has identified a wellbeing need or has been made aware of a likely wellbeing need they have the opportunity to share information in order to explore options for support or to make enquiries on behalf of the child, young person or parents.

10.11.2 An example of this would be where a Named Person is making enquiries with a relevant authority to try and identify what support would help to meet the child's needs. This professional dialogue may entail disclosing limited information about the child and their needs so that the relevant authority can consider whether the support they can offer would benefit the child. Any information shared must be legal and considered in terms of the principles and boundaries of data protection, human rights and children's rights.

10.12 Exercising functions on behalf of a service provider or relevant authority

10.12.1 **Section 26 (10)** says that references to a service provider or relevant authority (schedule 2 body) in section 26 should include anyone exercising a function on their behalf. This includes, but is not restricted to, commissioned or contracted third sector or private organisations. A service provider or relevant authority should ensure that those exercising these functions on their behalf are aware of expectations and responsibilities under the Act.

10.13 Duties of confidentiality

10.13.1 **Section 26 (11)** of the Act permits information sharing in breach of a duty of confidentiality in relation to the duties under section 26 of the Act. Section 26 and this guidance set out what needs to be considered before doing so.

10.13.2 This sub-section of the Act permits health professionals and others governed by a professional or common law duty of confidentiality to legally disclose relevant information without the information provider's consent where disclosure of that information has been considered and meets the tests set out in the relevant sub-sections of section 26.

10.13.3 **Section 26 (11)** does not permit or require the sharing of information in breach of any other legal restriction such as the DPA, the Human Rights Act 1998, an Order of the court or a decision by a Children's Hearing specifying non-disclosure of specific information.

10.13.4 In all but exceptional situations, the child or young person, and – as appropriate – their parents, will be involved in the decision to share information and will be told what information has been shared in breach of a duty of confidentiality.

10.14 Disclosure of information provided in breach of a duty of confidentiality

10.14.1 **Section 27** sets out what should happen where information has been shared in breach of a duty of confidentiality, and the person sharing the information has told the recipient about this breach. Whoever receives the information is not to share it further unless this further disclosure would be permitted by law. This offers a safeguard against possible inappropriate further sharing of information in breach of a duty of confidentiality. Section 27 applies to any information sharing in breach of a duty of confidentiality that takes place under Part 4 of the Act.

10.14.2 If the person receiving the information believes it is necessary to share all or part of it in order to promote, support or safeguard the child's wellbeing, then the considerations in section 26 must be applied. This would include taking into account the child's views and understanding the likely effect of sharing on the child's wellbeing. Other legal requirements must also be considered, including the DPA and the child's right to private and family life under Article 8 of the ECHR. Decisions to share information in these situations will need to be evidenced, and the rationale recorded.

10.15 Communication when a child's Named Person changes

10.15.1 **Section 23** sets out duties when a child or young person's Named Person service provider changes. It is relevant at all points of transition between Named Person services, unless the child is no longer covered by the provisions of the Act.

10.15.2 Throughout a child's life there will be set points where the Named Person service provider changes. For all children this will include the transition from being a pre-school child when the transition is from the health board as service provider to the local authority, or independent/grant-aided school. In addition to this planned transition, other events triggering a change in Named Person service provider could include:

- a pre-school child moving to another health board area;
- a child or young person moving to or from a school in a different local authority;
- a child or young person moving to or from an independent or grant-aided school;
- a school age child not on a school roll moving to a different local authority area;
- a child moving into or out of secure accommodation; or
- a child moving into or out of the custody of the Scottish Prison Service.

Each transition should be seen as an information sharing decision point.

10.15.3 Arrangements are already in place for the routine transfer of information at transition points (for example, patient records from one health board to another, and pupil progress records from one school area to another), and this will continue to be the general procedure.

10.16 Duties on the outgoing Named Person service provider

10.16.1 Under **section 23 (2)**, when an organisation stops being the Named Person service provider for a child or young person, they must, as soon as reasonably practicable, contact whoever they expect to provide the service from then on to let them know. In these circumstances, they are referred to respectively as the 'outgoing service provider' and the 'incoming service provider'. The outgoing Named Person service provider has a duty to give the incoming Named Person service provider:

- a) the name and address of the child or young person and each parent of the child or young person (so far as the outgoing service provider has that information); and
- b) all information the outgoing service provider holds and which falls within **section 23 (3)** of the Act – that is, information **likely to be relevant to**:
 - i. the incoming Named Person service provider's functions under Part 4 of the Act, or
 - ii. their Named Person functions in the future.

10.16.2 Before sharing any information, the outgoing service provider must consider whether the information **ought to be provided** and whether **to do so would prejudice the conduct of any criminal investigation or the prosecution of any offence**. These requirements and considerations are the same as those explained in the guidance on Information sharing with the Named Person service (paragraph 10.7). Information can also be shared under **section 23 (3)(a)(ii)** by the outgoing Named Person service provider with the incoming service provider where it is considered likely to be relevant to the future exercise of the Named Person functions. If at any time when considering sharing information there is any concern that the child may be at risk of significant harm, it is essential that child protection procedures are followed without delay.

10.17 Having regard to the views of the child

10.17.1 Before sharing information under section 23, a service provider should, as far as reasonably practicable find out the views of the child or young person and take account of these. This is described in the guidance on **Information Sharing with the Named Person service** (paragraph 10.7).

10.17.2 Where the outgoing service provider decides to share information against the wishes of the child they should record the child's views and why they decided to share the information.

10.18 Parents' views

10.18.1 It is routine good practice to seek parents' views about information shared at transition points. There is more information about seeking the views of parents in the guidance **Information Sharing with the Named Person service** (paragraph 10.7).

10.19 Good practice to support continuity of Named Person service

10.19.1 Where a child or young person has identified wellbeing needs, it would be good practice, in the interest of providing them with continuity of a Named Person service and supporting good transitional management, for the outgoing service provider to consider notifying in advance the service they believe will be the incoming Named Person service provider.

10.19.2 The sharing of any personal information with a new or prospective Named Person service provider should take place within the established information sharing framework and in line with the requirements of sections 26 and 27 of the Act.

10.20 Recording decisions to share

10.20.1 The Named Person service provider should record all the decisions they make about transferring or sharing information, and why they have done so. The Named Person is likely to take a leading role in deciding what information to share and will be supported by the wider Named Person service where decisions may be assisted by consultation with managers or relevant colleagues.

10.21 Transferring residence outside Scotland

10.21.1 When a Named Person service provider believes that a child or young person has taken up ordinary residence outside Scotland then the Named Person service provisions and duties no longer apply. However the outgoing Named Person service provider must review all information held and consider whether the child's or young person's circumstances indicate that their wellbeing might be adversely affected if information was not shared with an appropriate authority elsewhere. While the provisions of this Act do not apply to the further sharing of information outside Scotland, where there are genuine concerns about a child's or young person's wellbeing, the DPA permits lawful and proportionate information sharing, while also protecting the right of the individual to have their personal information fairly processed.

10.21.2 Where children or young people take up ordinary residence outside Scotland, relevant information held about the child or young person should be archived and retained in line with the DPA and the Named Person service provider's records management plan. If the child or young person returns to Scotland, information that is likely to be relevant to their wellbeing will need to be shared with the Named Person service provider.

10.22 Change in Named Person within the same Named Person service

10.22.1 There will be times where a child's or young person's Named Person service provider remains the same but the Named Person changes. This could be due to them progressing through education or health services or due to staff changes. While the terms of section 23 do not apply to these changes, the general principles of information accuracy, relevance, proportionality and appropriateness should be considered when information is shared within a service.

11 Section 30

11.1 Complaints in relation to Part 4

11.1.1 Section 30 of the Act creates an order-making power for the Scottish Ministers about the making, consideration and determination, of complaints about the exercise of Part 4 functions. Any complaints under this Part should be pursued via the process to be set out in this order. There will also be additional guidance about how to manage complaints relating to Part 4.

12 Section 31

12.1 Relevant authorities

12.1.1 As already noted, the bodies listed, or described, in [schedule 2](#) are considered to be relevant authorities for the purpose of all sections of Part 4 of the Act. Third sector organisations contracted or commissioned to deliver services on behalf of any relevant authority will also have to comply with duties under this part of the Act.

12.1.2 The following bodies are considered to be relevant authorities for all sections of Part 4 excluding section 29:

- the Commissioner for Children and Young People in Scotland; and
- a body which is a “post-16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005.

These two bodies have a degree of independence and therefore cannot be subject to the direction of Scottish Ministers as laid out in section 29 of the Act.

12.1.3 The Act gives Scottish Ministers the power by order to add, remove or modify an entry in schedule 2, therefore changing the list of relevant authorities.

12.1.4 Relevant authorities are those considered able to take action to support the Named Person in promoting, supporting or safeguarding the wellbeing of a child, or young person, and to help in the exercise of any of the Named Person functions, in the course of their normal operations.

12.1.5 Depending on the nature of the operations of each of the relevant authorities, the support which they may be able to provide to the Named Person will vary but is likely to include:

- sharing information relevant to the child’s, or young person’s, wellbeing;
- contributing to the assessment of wellbeing in order to provide information, advice or support to the child, young person, or their parents; and
- providing a service for the child, young person, or their parents.

13 Part 5 – Child’s Plan

13.1 Purpose of Part 5 of the Act: Child’s Plan

13.1.1 The aim of [Part 5](#) of the Act is to improve outcomes in relation to children’s wellbeing by ensuring that a statutory plan – called the Child’s Plan – is prepared for every child who needs one. The Child’s Plan will form the basis of a single planning framework which will be able to incorporate elements of the plans that are required under other legislation. This includes Looked After Children (LAC) plans and pathway plans under the 1995 Act, and coordinated support plans (CSP) under the 2004 Act, and also the non-statutory child protection plan that is described in the [National Guidance for Child Protection in Scotland \(2014\)](#). The statutory and non-statutory requirements to consider, prepare, deliver and manage these existing plans remain in place but should be incorporated into the Child’s Plan framework. A streamlined planning process should ensure that this single planning framework operates across children’s services to make good use of resources and avoids unnecessary duplication for the child, their parents, and practitioners.

This is a summary of what is in Part 5:

- **Section 33** says that a responsible authority must consider whether there is a requirement for a Child’s Plan, and sets out how this should be done;
- **Section 34** covers the content of a Child’s Plan and contains an order-making power to enable Scottish Ministers to specify what other information is, or is not, to be contained in Child’s Plans, and the form of Child’s Plans;
- **Section 35** requires a responsible authority or, in some circumstances, a relevant authority, to prepare a Child’s Plan. Section 35 (8) gives Scottish Ministers order making powers in respect of the preparation of a Child’s Plan, and the provision of copies of the Child’s Plan;
- **Section 36** sets out who the responsible authority for a Child’s Plan normally is;
- **Section 37** says what the terms ‘responsible authority’ means in special cases, and lists what these special cases are;
- **Section 38** sets out the duty on a relevant authority to secure delivery of a Child’s Plan by providing a targeted intervention themselves, or by arranging for a targeted intervention to be provided in accordance with the plan;
- **Section 39** specifies how a Child’s Plan should be managed and reviewed by the ‘managing authority’, and sets out who the ‘managing authority’ of the Child’s Plan is;
- **Section 40** says that relevant authorities and listed authorities (that is, those in schedule 3) must comply with any reasonable request to provide information, advice or assistance to a person exercising functions under Part 5;
- **Section 41** outlines the requirement for relevant and listed authorities to follow this guidance (other than having to comply with section 38); and says that Scottish Ministers must consult anyone it relates to as well as anyone else they consider appropriate before they issue or revise this guidance;
- **Section 42** says that Scottish Ministers can issue directions on functions under this Part, other than the delivery of the Child’s Plan and that there is a duty to comply with those directions;

- **Section 43** gives Scottish Ministers order making power about the making, consideration and determination of complaints in relation to functions covered by this Part;
- **Section 44** relates to those listed, or described, in schedule 3 – they are referred to as ‘listed authorities’ for the purposes of this Part; and
- **Section 45** provides a definition of terms used in Part 5.

Definition of a responsible authority

13.1.2 A responsible authority is the authority that has a duty to decide whether a Child’s Plan is required, and in most circumstances, to prepare the Child’s Plan. The responsible authority for the child will have various functions to exercise under Part 5 of the Act. Sections 36 and 37 explain who the responsible authority will be in both general and specific circumstances. It will be helpful to consider these explanations before considering the rest of Part 5. For this reason, this guidance looks at sections 36 and 37 first.

13.2 Part 5 – section 36: responsible authority: general

13.2.1 In most cases where a child requires a Child’s Plan, the support identified through the targeted interventions in the Child’s Plan is delivered through services available in the area where the child lives. The responsible authority is usually the health board (pre-school children) or local authority (non-pre-school children) in that area.

13.3 Part 5 – section 37: responsible authority: special cases

13.3.1 Sometimes, the responsible authority will be different to the general definition in Section 36:

Health board or local authority

13.3.2 If a pre-school child is required to live in another health board area, as a result of a decision by the local authority or health board, then the health board where they would normally live is the responsible authority for the child.

13.3.3 Where a child attends a state school in a local authority area other than the one where they live, the authority where they go to school is the responsible authority for the child.

Grant-aided and independent schools

13.3.4 Where the child is a pupil at a grant-aided school or an independent school, placed by their parents, the directing authority of that school is the responsible authority in relation to the child.

13.3.5 Where a local authority has placed a child in a grant-aided or independent school, regardless of where the school is located, the local authority where the child would normally live is the responsible authority for the child.

13.3.6 The ‘home’ local authority (in other words the local authority where the child would normally live) remains the responsible authority when the child lives in a different local authority area for any of the following reasons:

- the local authority places the child in a residential grant-aided or independent school (under the 1980 Act), and the child is accommodated for that purpose;
- the child is placed in a residential establishment under Chapter 1 of Part 2 of the 1995 Act (section 93);
- the child is placed in a residential establishment through an order under the 2011 Act (section 202), in other words, under an order made by a Children’s Hearing or Sheriff which requires the child to reside at a residential establishment; and
- the child is detained in residential accommodation due to an order made under the Criminal Procedure (Scotland) Act 1995.

Relationship between responsible authority and Named Person service provider

13.3.7 As specified in Part 4 of the Act, the Named Person service is to be provided by the health board, local authority, directing authority or the Scottish Prison Service. In some cases, the child’s Named Person service provider may not be the same organisation as the responsible authority. In these cases, collaboration and co-operation is particularly important.

13.3.8 Where the child lives in another area as a result of a health board or local authority decision, it would be expected that the child would have a Child’s Plan in place before their change of residence, and that this would be prepared by the responsible authority. In these cases, the responsible authority will need to liaise closely with the child’s Named Person service provider.

13.3.9 Where the child attends a state school managed by a local authority other than their ‘home’ local authority, that other authority is the responsible authority in relation to the child, and is also the Named Person service provider for that child. In some instances it will be appropriate for the responsible authority to ask the home local authority, as a relevant authority, to prepare the Child’s Plan. In such cases it will be important for the Named Person service provider and the relevant authority to liaise closely in considering the need for a Child’s Plan, and in preparing the Child’s Plan.

13.3.10 In the special cases described, where the child is a pupil at a grant-aided school or independent school (and the decision to place the child in that school was made by the child’s parents or carers), then the directing authority of that school is both the Named Person service provider and the responsible authority in relation to the child.

13.3.11 In those special cases where the child has been placed at a grant-aided or independent school by a local authority, that local authority is the responsible authority in relation to the child, and the directing authority of the school is the Named Person service provider. This would be the case regardless of whether the grant-aided or independent school was in the same or a different local authority area. In these circumstances the child would be expected to have a Child’s Plan in place,

prepared by the responsible authority before they were placed in the independent or grant-aided school.

13.4 Part 5 – section 33: Child’s Plan requirement

13.4.1 This section sets out the framework within which a decision to initiate a Child’s Plan should be made. It will be for the responsible authority in relation to the child, to decide if a child requires a Child’s Plan based on the criteria outlined below. The responsible authority may be a health board, a local authority, or a directing authority where a child attends an independent or grant-aided school.

When is a Child’s Plan required?

13.4.2 There are two main considerations in deciding if a child requires a Child’s Plan. The first is based on an assessment of wellbeing, as set out in Section 96 (2) and further explained in the Wellbeing section of this guidance. The child must be assessed as having a wellbeing need in terms of the wellbeing indicators described in the Act. This means that a judgement has been made that the child’s wellbeing is currently being adversely affected by any matter, or is at risk of being adversely affected, as specified in Section 33 (2). The adverse effect may be on one or more aspects of wellbeing and can arise from any factors relevant to the child. This judgement will usually be made by the Named Person, based on a holistic knowledge of the child, and informed by the use of the National Practice Model.

13.4.3 The second consideration relates to what support is thought to be necessary to meet the identified wellbeing need. A wide range of children may present with a wellbeing need at some points in their lives and these can most often be met through support from their family, community resources or the support generally available within the universal services (the health board, local authority or the independent or grant-aided school). A Child’s Plan is required only when the wellbeing need cannot be met, or fully met, without one or more ‘targeted interventions’.

Targeted intervention

13.4.4 Within the terms of the Act, a targeted intervention is a service provided by and/or arranged by a relevant authority. It is directed at meeting the wellbeing needs of children whose needs cannot be met, or fully met, by the services generally available to children. It will be for relevant authorities to decide whether a service or support is generally available or whether it is a targeted intervention. Within health services, for example, GP services, health visiting and support for specific but common conditions may be considered as generally available services, where on-going coordination of support within or between services, or intensive short-term coordination would not be needed. Similarly, within local authority services, support provided through the school and associated services like educational psychology, or specialist teaching services, again where no on-going coordination is required, would be seen as generally available services. For many children, collaborative working between health and education services is generally available, for example, where community child health services support school-aged children. For local authorities, this is likely to be in line with their staged intervention approach.

13.4.5 The judgement about whether a targeted intervention is needed will be related to the individual child's needs, the local context and the service design of the relevant authority and partners. This is a person-centred approach. It will be for all relevant authorities to consider whether the service or support needed, and the level of coordination required to deliver it, is beyond what is generally available, and therefore meets the definition of a targeted intervention for the purposes of a Child's Plan.

13.4.6 A targeted intervention may also be identified through other statutory or non-statutory processes. These would include planning for looked after children, planning associated with a coordinated support plan, and child protection measures.

13.4.7 If a relevant authority arranges a targeted intervention involving a third party then that third party may become a partner to the Child's Plan – see guidance on section 38. In terms of providing a targeted intervention, a third party may be:

- a public body, listed in schedule 3, delivering a service or support by arrangement with a relevant authority;
- a third sector organisation commissioned or contracted by a relevant authority to provide a service or support; or
- a third sector organisation which is not contracted, but which provides a service or support by arrangement with a relevant authority.

Planning

13.4.8 While specific systems and processes need to be in place to develop a Child's Plan (within the terms of the Act), these need to be set within the principles of early and effective intervention and the more general planning processes which will continue to be in place for children. For some children there will be a need to plan short-term or long-term support within universal services as part of the support that is generally available. This might include a health care plan to address a health need or an individual education programme, delivered within the school, to support a particular learning need. This planning should continue for those children who need it, using the National Practice Model, and being proportionate to the child's needs.

13.4.9 Where there is no requirement for a targeted intervention to address and coordinate a response within or across services to meet, or fully meet, the wellbeing need, the plan will not constitute a statutory Child's Plan. Only in situations where this generally available service or support is not sufficient to meet the wellbeing needs and improve outcomes for the child will a targeted intervention and a more coordinated planning approach be indicated and lead to the development of a Child's Plan.

Consultation on the requirement for a Child's Plan

13.4.10 The Named Person has a key role in promoting, supporting and safeguarding the wellbeing of the child. Acting on behalf of the responsible authority, they will always be involved in deciding if a Child's Plan is required. Section 33 (6)(a) says that even where the Named Person is not employed by the responsible authority, they must be consulted in deciding if the child requires a Child's Plan.

Involvement of the child, parents and others

13.4.11 Section 33 (6) of the Act requires the child, and the child's parents, to be involved in considering whether the child has a wellbeing need, and if so, whether a Child's Plan needs to be initiated to coordinate the necessary support. Therefore, in deciding whether a child requires a Child's Plan, the responsible authority must, so far as reasonably practicable, seek and have regard to the views of the child, the views of the child's parents, and the views of any other people the responsible authority considers appropriate.

13.4.12 Discussion with the child and parents is expected to be part of the decision-making process in all but exceptional cases. The responsible authority would need to have reasoned justification why they had not been able to involve the child and parents, and obtain their views. An example of an exception may be where doing this would be detrimental to the child's wellbeing – as in some cases of child abuse or where the child is over 16 and living an independent life separate from their parents. There may also be exceptional situations where a child's mental health is regarded as being so fragile that getting their views would be further detrimental to their wellbeing. Communication or learning difficulties should not be considered an exception to the requirement to obtain and consider the views of the child or parent. Every effort should be made to support the child or parent to express their views. Where it is practicable to obtain the child's views, this should always be done, regardless of the child's age. Further, if views have been obtained then they should always be recorded and considered.

13.4.13 In having regard to the child's views, the responsible authority must take account of the child's age and maturity (Section 33 (7) of the Act). Consideration should also be given to any speech, language and communication difficulties and needs the child may have and appropriate support provided to overcome barriers as far as possible. This will allow, for example, a young child's views to be taken into account and given significant weight even though they are below the age of 12, which is often used as a determination of capacity.

13.4.14 It will be for the responsible authority to consider who else should be consulted in deciding if a Child's Plan is required. While this will always be based on the individual child's circumstances, and take account of views expressed by the child or parent, it may be appropriate, for example, to consult with those who have a role in looking after the child but are not covered by the definition of parent, such as a residential care worker.

13.4.15 As outlined above, in deciding if a child requires a Child's Plan, the responsible authority must consider:

- whether the child has a wellbeing need;
- whether the responsible authority can meet that wellbeing need through services which are generally available;
- where the need cannot be met, or fully met, by a service provided generally, whether it can be met by providing a targeted intervention (which could include targeted interventions required by other statutory planning requirements or described in national guidance); and
- the views of the Named Person, the child and the child's parents, and any other appropriate people as to whether a Child's Plan is needed.

Exceptions

13.4.16 The duties in section 33 do not apply to children who have not reached their 18th birthday, but are members of the regular forces, as they fall outside the scope of Part 5 of the Act.

13.4.17 Members of the reserve forces, who are under 18, however, are not exempt from the Child's Plan provisions. A member of the reserve forces whose wellbeing needs cannot be met or met fully without a targeted intervention should have a Child's Plan. For the period that the child is on duty or training with the reserve forces and therefore subject to service law, there may be practical limitations on carrying out all the actions in the Child's Plan. In these individual circumstances there should be agreement between the responsible authority and the reserve forces on how to manage this process.

13.5 Part 5 – section 34: content of a Child's Plan

13.5.1 Section 34 of the Act, supplemented by the Child's Plan (Scotland) Order 2016, sets out the minimum requirements for Child's Plan content. A Child's Plan can also contain other information that a responsible or managing authority considers appropriate. The Child's Plan has been designed to record the assessment and analysis of the wellbeing needs of a child and the agreed actions to improve their outcomes. It will help responsible authorities, relevant authorities or listed authorities working in partnership with children, parents and other relevant people to coordinate services and support effectively for children and families. The Child's Plan should support all key planning processes – statutory and non-statutory. It should streamline the planning process by bringing together planning requirements, actions and outcomes for individual children.

13.5.2 The Child's Plan should be accessible and helpful to the child and parents, and all other partners to the Plan. This means it should be made available in a way that ensures parents and children can understand the content of the plan, and express their views about it. This includes making the Plan accessible in the first language of the child and / or parent.

13.5.3 A Child's Plan could be used in formal settings such as children's hearings or courts. Managing authorities should consider how the content of a Child's Plan can be adapted or presented for these purposes. Practice materials will provide further advice to support the development of the Child's Plan.

13.5.4 Section 34 of the Act, sets out the required content of a Child's Plan. The Act says that a Child's Plan must contain a statement of:

- the child's wellbeing need;
- the targeted intervention(s);
- the relevant authority which is to provide the targeted intervention;
- the manner in which the targeted intervention is to be provided; and
- the outcome in relation to the child's wellbeing need which the targeted intervention(s) is intended to achieve.

Information to be contained in a Child's Plan

13.5.5 The Act allows Scottish Ministers, by order, to make provision as to other information which is, or is not, to be contained in a Child's Plan, and the form in which that information should be set out. The information required to be contained in a Child's Plan is set out in the Child's Plan (Scotland) Order 2016.

13.5.6 The content required by the Order is to provide a consistent framework to allow the Child's Plan to be used to meet statutory and non-statutory planning requirements. This is set out in Annex C which gives detail of Section 34 and Schedule 1 of the Child's Plan (Scotland) Order. The required content includes some types of information which will be relevant to all children who will require a Child's Plan, for example demographic information and the wellbeing assessment and analysis, and some types of information which will only be relevant to children in certain circumstances, for example reference to other statutory planning requirements, which could include compulsory measures of supervision. This has the effect of streamlining planning processes to allow the Child's Plan to incorporate the content necessary for children who are looked after, those leaving care, those with a CSP and children on the Child Protection Register.

13.5.7 While the Act and the Order prescribe a minimum content to ensure a level of consistency, it will be for the authority preparing, and / or managing, the Child's Plan, to decide what additional content may be appropriate to meet the purposes of the plan. For example, in some instances it will be helpful to include in the plan further information about family composition, self-directed support options or adult protection measures (for 16 to 18 year olds).

The child's wellbeing need

13.5.8 The child's wellbeing should be assessed and recorded in terms of the eight wellbeing indicators specified in section 96 (2) of the Act. The assessment process should follow the [National Practice Model](#), which provides a framework for practitioners to structure and analyse information consistently to understand a child's needs, their strengths and the pressures on them, and to consider what support the child might need to improve wellbeing outcomes, including consideration of whether compulsory measures of supervision may be required to meet the child's wellbeing needs.

13.5.9 This means that the Child's Plan should provide a holistic view of the child's wellbeing, set out the circumstances that give rise to the child's wellbeing needs, record the child's wellbeing needs, and how the assessment of needs has been reached, following the National Practice Model process. The child's and parents' views on the assessment and needs and other relevant information should be included in the plan.

13.5.10 A **chronology** should be prepared to inform the assessment of wellbeing which is part of the Child's Plan. A chronology should contain a record of significant achievements, events and changes in a child's life, so that the impact of these on the child or patterns over time may be considered. A chronology is not an end in itself but a working tool which can help to identify strengths, needs and risks. Information which may be relevant to a chronology can come from children, parents, services or agencies who support or have supported the child or family. A chronology should

only include information that is relevant and proportionate to support the holistic assessment of wellbeing. Further information about chronologies is contained in other [guidance](#).

13.5.11 The wellbeing assessment will be contained in the Child's Plan. Where the assessment is very complex or specialised, or where other statutory planning requirements apply (for instance, looked after children, coordinated support plan), a judgement will need to be made about what should be summarised for inclusion in the Child's Plan and what should be retained in other records. In assessing the child's wellbeing needs, consideration should be given to whether the child is at risk of becoming looked after, and local authorities should consider their duties under Part 12 of the Act to make certain services available to the child. Where assessment indicates that a compulsory supervision order might be necessary, the Child's Plan should include clear details as to what specific measures are recommended and the reasons why. In some cases there will be assessment information which is sensitive or could cause distress or risk to the child or other family members, or is subject to disclosure restrictions. This will need to be dealt with on a case-by-case basis following [national guidance](#).

The outcome in relation to the child's wellbeing need

13.5.12 The Plan should include outcomes, focused on the child's wellbeing needs, and should say how coordinated services or support will impact on their wellbeing. The outcomes will be specific to the child and their circumstances and may have a short or longer term focus as required.

The targeted intervention

13.5.13 The targeted intervention or interventions, which require(s) to be provided in relation to the child to improve outcomes. This will include any targeted interventions from other statutory or non-statutory planning requirements.

The relevant authority which is to provide the targeted intervention

13.5.14 The targeted intervention will be provided by a relevant authority (in pursuance of its functions under section 33 (4)). In relation to the Child's Plan, a relevant authority will be a health board, a local authority or a directing authority of an independent or grant-aided school. A targeted intervention may also be provided by a third party, including third sector organisations, by arrangement with a relevant authority.

The manner in which the targeted intervention is to be provided

13.5.15 This part of the Plan will describe how the targeted intervention will be provided. It will include appropriate detail about who is responsible for the actions, noting the agencies involved, what the coordinated services or supports are, and how long they will be provided for.

Other actions

13.5.16 Where at least one targeted intervention is required, the Child's Plan (Scotland) Order 2016 also allows for actions to be included in the plan which do not meet the definition of a targeted intervention. These actions can include inputs from

parents, children, and other bodies by arrangement and agreement, and may include the conditions of a compulsory supervision order made by a children's hearing.

Agreement on the provision of a targeted intervention

13.5.17 The development of a Child's Plan should involve professional dialogue and appropriate communication between services and organisations who may have a role in supporting the child and family to ensure that the child can receive the right support at the right time. The service or support which is a targeted intervention can only be included in a Child's Plan if the relevant authority (which would provide it or arrange for its provision) agrees.

Situations where a relevant authority does not agree to provide a targeted intervention

13.5.18 If a relevant authority does not agree that a particular targeted intervention should be in the Child's Plan, it must give a statement of its reasons for not agreeing to the authority preparing the Plan. In such circumstances the authority preparing the Plan should have processes in place to record this decision, and where possible, to make alternative arrangements to achieve the desired outcome for the child. It is important that these processes are swift and effective so as to prevent any delays in meeting the child's wellbeing needs.

Other information to be contained in a Child's Plan

13.5.19 The Act allows Scottish Ministers, by order, to say what other information may, or may not be contained in a Child's Plan, and how that information should be set out. This is specified in the Child's Plan (Scotland) Order 2016.

13.5.20 Local arrangements may require additional information to be included in a Child's Plan for different purposes. Details of any such additional information should be set out in local procedures and guidance.

13.6 Part 5 – Section 35: preparation of a Child's Plan

13.6.1 Section 35 outlines the duties and responsibilities relating to preparation of a Child's Plan. This section applies in all circumstances (set out in section 33 of the Act) where a child requires a Child's Plan.

13.6.2 Once it is established that a child needs a Child's Plan, the responsible authority (as defined in sections 36 and 37 of the Act) or if agreed, a relevant authority, must prepare the Plan as soon as reasonably practicable. This means as soon as all the required steps can be completed effectively, which should be no longer than 12 weeks and should be in accordance with other relevant statutory requirements. The responsible authority will usually be the health board (pre-school children) or local authority (non-pre-school children) for the area where the child lives, or the directing authority where the child is placed by parents in an independent or grant-aided school.

The role of the Named Person in preparing a Child's Plan

13.6.3 In most situations, the Named Person will initiate preparation of the Child's Plan. This is because the Named Person is the single point of contact for

information about a child's wellbeing, and may therefore already hold relevant information (and will know if the child already has a Child's Plan). The Named Person will initiate the process in collaboration with the child and parents, and with colleagues from other services/agencies as appropriate.

13.6.4 Where the child's needs lie predominantly within the scope of the Named Person's agency, the Named Person will prepare the Child's Plan. Health boards, local authorities and directing authorities, in their role as responsible authorities, should have in place processes, protocols, guidance and agreements to support the Named Person in determining whether or not they are the most appropriate individual to prepare the Child's Plan.

13.6.5 For many children there will be an incremental approach to planning and providing support to meet wellbeing needs. If a wellbeing assessment indicates that generally-available services or support are not sufficient to meet, or fully meet the child's wellbeing needs, and a Child's Plan is required, then the initiation and preparation of the Child's Plan will build on previous assessments and planning processes. In such cases it is likely that the Named Person will initiate and prepare the Child's Plan.

13.6.6 An example of where it would be more appropriate for someone other than the Named Person to prepare the Child's Plan may be where a baby is born with complex health needs. The Named Person here would normally be a health visitor. However, the preparation of the Child's Plan might, in these circumstances, be undertaken by another employee of the responsible authority, for example, specialist health staff.

The role of a relevant authority in preparing a Child's Plan

13.6.7 In some situations, it will become clear that, having initiated the Child's Plan process, the Named Person, acting on behalf of the responsible authority, is not the most appropriate person to prepare the Child's Plan. The Act allows the responsible authority to ask a relevant authority to take over preparation of the Child's Plan in these circumstances. Where this has been agreed, the relevant authority will identify an individual to prepare the Plan as soon as reasonably practicable. An example of where this might happen would be where a pre-school child has social care needs requiring targeted support from social work services. The health board (responsible authority) might agree with the local authority (relevant authority) that it would be more appropriate for a social worker to prepare the Child's Plan.

If a relevant authority declines a request to prepare a Child's Plan

13.6.8 In some circumstances a relevant authority may decline the responsible authority's request to prepare a Child's Plan. In these circumstances the relevant authority must give reasons for their decision and the responsible authority must decide how they can most effectively prepare a Child's Plan to meet the child's wellbeing needs. Local procedures and governance arrangements should underpin this process. The Named Person, in collaboration with the child, parent and others as appropriate, will need to be supported in making alternative arrangements to prepare the Child's Plan without delaying the provision of appropriate support to the child.

Requirement to consult the Named Person

13.6.9 There will be some situations where the Named Person is not an employee of the responsible authority. This could happen, for example, where a child has been placed by their local authority in an independent or grant-aided school, or in some models of health and social care integration, or where the Scottish Prison Service is the Named Person service provider. In such circumstances, there is a requirement in terms of section 35 (6)(a) of the Act to consult the Named Person about the preparation of a Child's Plan.

13.6.10 Where the Named Person is not preparing the Child's Plan, they should always be consulted and involved in discussions, as they will hold key information about the child's wellbeing. However, involving the Named Person should never delay vital action being taken to meet the child's wellbeing needs.

13.6.11 For a minority of children, a sudden event or crisis might require multi-agency planning and support as a priority response or other statutory planning requirements may apply. Typically this could happen if there are child protection concerns, circumstances leading to the child becoming looked after, or sudden serious medical issues, that requires a coordinated response to the child's immediate needs. If there are any concerns that a child may be at risk of significant harm, local child protection procedures must be followed. Preparation of the Child's Plan will follow later, after this immediate action, and it may be appropriate in these circumstances for a practitioner other than the Named Person to prepare the Plan (for example, a social worker). In this situation, the social worker would have to consult with the child's Named Person in the process of preparing the Child's Plan.

Requirement to ascertain and have regard to the views of the child, parent and others

13.6.12 Children and parents must be involved in the assessment and planning process where there is an identified wellbeing need. In preparing the Child's Plan, the responsible authority or relevant authority is required, as far as is reasonably practicable, to find out and take account of the views of the child, the child's parents, and anyone else the authority considers appropriate. Scottish Ministers may by order specify, other persons who should be consulted (Section 35 (6)).

13.6.13 Discussion with the child and parents will be part of the preparation process in all but exceptional circumstances, and the responsible authority would need to give reasons if they had not involved the child and / or the parents, and got their views.

13.6.14 In taking the child's views into account, the responsible authority must also take account of the child's age and maturity (Section 33 (7) of the Act). Consideration should also be given to any speech, language and communication difficulties and needs the child may have, providing appropriate support to overcome barriers as far as possible. This will allow, for example, a young child's views to be taken into account and given significant weight even if they are below the age of 12, which is often used as a determination of capacity.

13.6.15 In preparing a Child's Plan, the responsible or relevant authority should seek to work in partnership with the child, parents and other appropriate persons. In

most cases, the Child's Plan will be prepared with the agreement of all parties. However, in some exceptional situations a Child's Plan may have to be prepared without the agreement of the child, or the child's parents. For example, where a child has significant social and emotional difficulties and does not want a Child's Plan but the parents have agreed to the preparation of a Plan, the Plan would be prepared. Similarly, where there are child protection measures, compulsory measures, or any other statutory or court orders which include targeted interventions, a Child's Plan may be prepared with or without agreement of the child or parents.

Who gets copies of a Child's Plan?

13.6.16 The Child's Plan (Scotland) Order 2016 says that the authority which prepared a Child's Plan (that is, a responsible or relevant authority) must give a copy of it to:

- a) the child where, taking account of the child's age and maturity, it is considered that the child is capable of understanding the purpose and effect of the Child's Plan;
- b) the child's parents; and
- c) the child's Named Person.

13.6.17 This requirement does not apply where the authority considers that doing so would:

- a) put the child's wellbeing at risk;
- b) place any person referred to in the Plan at risk of harm; or
- c) be incompatible with any legal obligation to which the authority is subject.

13.6.18 There may be circumstances (relating to statutory or non-statutory requirements) which mean that some information cannot be disclosed to someone who is involved in the Child's Plan. It will be for the responsible or relevant authority to ensure that there is compliance with any such requirements.

13.7 Part 5 – Section 38 Delivery of a Child's Plan

13.7.1 Section 38 of the Act sets out the statutory duties of relevant authorities in relation to the delivery of the Child's Plan. Relevant authorities under Part 5 of the Act are health boards, local authorities and directing authorities. In the context of the delivery of a Child's Plan, a relevant authority is to provide (either directly or by arrangement with a third party) the targeted intervention(s) as recorded in the Plan, so far as reasonably practicable.

13.7.2 In determining if it is reasonably practicable to provide or arrange the provision of a targeted intervention in accordance with the Plan, a relevant authority should consider whether this could reasonably be expected of it in the exercise of its functions. In determining what is 'reasonably practicable', the relevant authority should consider the child's wellbeing needs and individual circumstances. Organisations should have guidance and procedures in place to support and record the decision-making process.

13.7.3 In a situation where delivering a targeted intervention would adversely affect the child's wellbeing, the relevant authority does not need to deliver that intervention as recorded in the Child's Plan. This decision should be based on professional dialogue and discussion with the child and parents. An example of a situation where this may be the case is when the child becomes distressed before, after or during the delivery of the intervention.

13.7.4 Interventions for a child can also be identified independently of the Child's Plan process, through the Children's Hearings System. In practice, this would involve a children's hearing or court making an order which requires the authority implementing that order to take specific action in relation to the child. Every effort should be made to ensure that the targeted interventions and actions identified in the Child's Plan are in line with the decisions of the hearing or court.

13.8 Part 5 – Section 39 Child's Plan: Management

13.8.1 Section 39 of the Act outlines the duties relating to the management of a Child's Plan after it has been prepared. These duties relate to how the Plan should be kept under review, and how its management should be transferred under certain circumstances. Further details are specified in the Child's Plan (Scotland) Order 2016.

13.8.2 After a Child's Plan has been prepared, the responsible authority or relevant authority that prepared it becomes the managing authority for the Plan. The Act specifies what is to be kept under review by the managing authority, who must be consulted, whose views are to be considered, and the actions to be taken following review. The Child's Plan (Scotland) Order also says that the managing authority must identify an individual to take on the role of Lead Professional. It lays out a timeframe for initial and subsequent reviews of the Child's Plan, and specifies who can ask for a review under certain circumstances. This section of the guidance brings together the provisions of the Act and the Order to explain the management framework for the Child's Plan.

Managing authority of the Child's Plan: looked after children

13.8.3 The Child's Plan Order states that the managing authority of a Child's Plan for a looked after child is to be the local authority which has responsibility for the child in terms of section 17 of the 1995 Act. This is regardless of whether that authority would otherwise have been the managing authority for the Child's Plan under section 39 (7) of this Act. A child may have a Child's Plan in place before they become a looked after child. In the event that the managing authority for that Plan is not the local authority with responsibility for the child under the 1995 Act, then that local authority is to become the managing authority as soon as reasonably practicable. In these circumstances it will not be necessary to review the Plan prior to the local authority becoming the managing authority. The local authority as the managing authority is to review the Child's Plan as soon as reasonably practicable.

The role of the Lead Professional

13.8.4 The managing authority must identify an individual to act on its behalf to ensure that the Child's Plan is managed in compliance with the Act and the Child's Plan Order and in keeping with this guidance. This will normally be done in

discussion with the Named Person, the child and parents and other partners to the Child's Plan. The Lead Professional should be either an employee of the managing authority, or an employee of an organisation which exercises a function on behalf of the managing authority. This could include employees of third party organisations.

13.8.5 The intention is that the role of Lead Professional is undertaken by an individual who has the background, experience and position to ensure that the Child's Plan is managed effectively, as specified in the Act and the Child's Plan Order and in keeping with this guidance. It will be for the managing authority to ensure the management of the Child's Plan is coordinated by an individual who is appropriately supported and equipped to fulfil the conditions set out in the Child's Plan (Scotland) Order 2016.

13.8.6 In identifying who can be the Lead Professional, the managing authority should be satisfied that:

- the Lead Professional is suitably trained and experienced to fulfil their role in line with other statutory requirements and local guidance;
- there is a clear link between the role of the Named Person and the Lead Professional and a system to support appropriate collaboration;
- systemic and individual support is provided to enable each Lead Professional to carry out their role effectively;
- arrangements are in place to ensure business continuity in relation to managing a Child's Plan;
- arrangements are in place to ensure the appropriate and proportionate sharing of information, by and with the Lead Professional (acting on behalf of the managing authority), and the provision of advice or assistance to the Lead Professional;
- partnership arrangements are in place to support the functions of the Lead Professional in relation to coordinating the delivery of targeted interventions for a child;
- the Child's Plan is managed within an agreed single planning process; and
- the Child's Plan is managed in partnership with the child and parents.

13.8.7 The situation might arise where an employee of the managing authority (or another organisation) appears to be the right person to be the Lead Professional, but they are also a member of the child's family or well known to the family in a social context. It will be a matter for the managing authority, in discussion with the proposed Lead Professional, the child and parents, to decide if this is in the child's best interests. If the judgement is that there is a potential conflict between personal and professional roles of the individual, and that conflict could have a negative impact on the child's wellbeing, or would compromise the ability of the member of staff to carry out the Lead Professional role, then alternative arrangements must be made.

13.8.8 The roles of the Lead Professional and the Named Person are distinct, but they relate to each other -: professional dialogue and collaborative working are required to achieve improved outcomes for the child. The Named Person will usually initiate the Child's Plan, as described in section 35 of the guidance. The Lead Professional on behalf of the managing authority will ensure the Child's Plan is managed in compliance with the Act and the Child's Plan Order and in keeping with this guidance. The Named Person will continue to carry out their functions, as outlined in section 19 of the Act, during and after the delivery of the Plan. The

Named Person will always be a partner to the Child's Plan. In coordinating the management of the Plan, the Lead Professional should recognise the on-going role of the Named Person in promoting, supporting and safeguarding the child's wellbeing through their day-to-day activity in universal services.

13.8.9 There may be circumstances where it will be appropriate for the Named Person to take on the role of Lead Professional. This is likely to be the case where health or education is the service providing the key targeted interventions within the Plan, and is therefore best placed to ensure the Plan is managed effectively.

Review of the Child's Plan

13.8.10 Section 39 outlines a range of considerations about the management of the Child's Plan, which need to be kept under review by the managing authority:

- a) that the wellbeing need of the child stated in the Plan is still accurate;
- b) that each targeted intervention in the Plan, and the way the targeted intervention is to be delivered, is still appropriate;
- c) that the outcome of the Plan has been achieved; and
- d) whether the management of the Plan should transfer to another relevant authority.

Timescales for review

13.8.11 The initial review of the Child's Plan should take place within a period of 12 weeks after the Plan is prepared. Subsequent reviews should be undertaken at intervals to be agreed between the managing authority, the child and the child's parents. If agreement on the review schedule cannot be reached, then a review of the Plan should take place at least once every 12 months from the date the Plan was last reviewed. While these are the minimum requirements under the Order, the main consideration will be supporting the wellbeing of the child to achieve the outcomes detailed in the Plan.

13.8.12 The Lead Professional must ensure that the process of reviewing the child's wellbeing needs actively involves the child and their parents as appropriate, as well as the Named Person. The review process should be proportionate to the child's wellbeing needs and the reasons for reviewing the Plan, focusing principally on these needs and the targeted interventions. It should also include how far the desired outcome of the Plan has been achieved. Reviews will generally follow a pattern agreed by the partners to the Plan. The scope of the review will depend on the child's circumstances, progress towards the outcome of the Plan and the views of the child, the parents and the relevant authorities involved in providing the targeted intervention(s). It may not always be necessary to convene a meeting in order to conduct a review. This will be a matter for the Lead Professional, in consultation with the child, parents, Named Person and other partners to the Plan.

13.8.13 In some cases the need for the review will be influenced by other statutory or non-statutory considerations, for example, decisions made by children's hearings or courts, which may also determine the timescale for review. As far as practicable, the review schedule and process should be streamlined. The child and parent should be involved and there should be no unnecessary duplication of process for the child,

parent or practitioners. This means that, where the child is subject to other statutory or non-statutory planning requirements which are reflected in the Child's Plan (for example, looked after child planning, coordinated support planning or child protection planning), the review schedule and process agreed for the Child's Plan should meet these other planning requirements as far as possible.

13.8.14 As part of the management of the Child's Plan, the Lead Professional will need to keep under consideration any changes to the child's wellbeing needs, the targeted interventions and how they are delivered, the achievement of the outcome of the Plan and the need to transfer the management of the Plan. Where there are changes in any of these matters, the Lead Professional, acting on behalf of the managing authority, must consider whether to review the Plan earlier than scheduled, and, if necessary, to do so as soon as reasonably practicable.

13.8.15 The child or the child's parents may ask the Lead Professional to consider reviewing the Plan outside the agreed schedule. The Lead Professional, acting on behalf of the managing authority, must then consider the matters outlined in paragraph [13.8.12](#) above, and whether the Plan may require to be amended. If action is required, the Plan should be reviewed as soon as reasonably practicable.

13.8.16 Another situation which will lead to a review of the Child's Plan is where a relevant authority has taken on management of an existing Child's Plan due to a change in the child's ordinary residence. This review must take place within 12 weeks of transfer to the new managing authority, as specified in the Child's Plan (Scotland) Order 2016.

13.8.17 Responsibility for the exercise of Lead Professional functions lies with the managing authority and not with any individual. The Act does not impose any legal responsibilities on any individual who may be carrying out the Lead Professional role. The managing authority should ensure that the Lead Professional has appropriate management support to carry out the role.

13.9 Section 39 (5)(b) – Transferring management of the Plan to another authority

13.9.1 If, after a review of a Child's Plan, the managing authority considers it would be more appropriate for another relevant authority to manage the Plan, then management responsibility may transfer to that other authority by agreement. This is most likely to happen when there is a change in:

- a) the child's wellbeing needs;
- b) any targeted intervention(s) required to meet those needs;
- c) how a targeted intervention is to be provided; and
- d) the outcome the Plan is intended to achieve.

13.9.2 Where one or more of these aspects changes, the managing authority should consider whether it might be more appropriate for another relevant authority to manage the Plan. For example, a pre-school child might have a Child's Plan outlining targeted interventions that would be provided by the health board. But when the child's circumstances change, social work services may need to get involved to provide support to the child and family via respite services. In a case like this, it may

be more appropriate for the health board to transfer management of the Plan to the local authority.

13.9.3 Decisions about transferring management of the Plan will be related to the individual child's needs, the local context and the service design of the managing and relevant authorities. The decision will be informed by consultation with the child, parents, and other partners to the Child's Plan as appropriate. When considering transfer of a Child's Plan to another relevant authority the managing authority for the Plan should consult with the responsible authority in relation to the child. This will usually be done through the managing authority reaching agreement with the child's Named Person, and will aid continuity of appropriate coordinated support.

13.9.4 When a managing authority becomes aware that a child with a Child's Plan is likely to or has already taken up ordinary residence in a different health board or local authority area, then the managing authority should review the Child's Plan. As part of this review, a decision will be made about the need to transfer management of the Plan.

13.9.5 Transfer of the management of the Child's Plan will be influenced by specific considerations where a child is subject to other statutory or non-statutory planning requirements. As far as practicable, the transfer process should be streamlined. The child and parent should be involved and there should be no unnecessary delay or duplication of process for the child, parent or practitioners.

13.9.6 A Child's Plan will include key elements of the looked after child's plan for a child who is looked after by a local authority but is not subject to a compulsory supervision order (CSO). In this situation when a managing authority is considering transferring the Child's Plan to another relevant authority then every effort should be made to harmonise the review and transfer of the looked after child's plan with the transfer of the Child's Plan.

13.9.7 In considering transfer of the Child's Plan where a child is subject to a compulsory supervision order then every effort should be made to align the managing authority of the Plan with the implementation authority for the CSO. The guidance in the document '[Children's Hearings \(Scotland\) Act 2011 – An Operational Framework](#)' and agreements between Social Work, Children's Hearings and the Reporter' should be followed to identify the implementation authority for the CSO and hence the presumed managing authority for the Child's Plan. The review and transfer of the looked after child's plan and the Child's Plan should be concurrent.

13.9.8 Where a child is on the Child Protection Register key elements of the child protection plan will form part of the Child's Plan. The local authority responsible for the child protection plan will be the managing authority for the Child's Plan. Where a child takes up ordinary residence in another local authority area then procedures should be followed in line with national child protection guidance to review and transfer the child protection plan. The review and transfer of the Child's Plan should be harmonised with this process.

13.9.9 Where a coordinated support plan (CSP) has been drawn up as part of the Child's Plan, transfer of management of the Child's Plan should take account of [Regulation 9](#) of The Additional Support for Learning (Coordinated Support Plan) (Scotland) Amendment Regulations 2005 which outlines requirements for the transfer of the CSP, including timescales. As far as reasonably practicable, the

process to transfer responsibility for the CSP should be harmonised with the transfer of the management of the Child's Plan, unless this would have a detrimental impact on continuity of support for the child.

13.9.10 Transfer of the management of the Child's Plan in the above circumstances will usually be agreed between authorities. In some exceptional situations, where the child has changed ordinary residence it may be unclear which authority would be most appropriate to take on management of the Plan. In these situations, the incoming Named Person service provider, who will have been given information about the child's wellbeing, will have responsibility to work with the managing authority of the Plan to consider whether the child continues to require a Child's Plan to meet their wellbeing needs. Where a change of ordinary residence is anticipated, it is likely to be in the best interests of the child's wellbeing for the Lead Professional, on behalf of the managing authority, to engage in dialogue with the prospective managing authority to plan transfer of management of the Child's Plan, this dialogue should also involve discussion with the incoming Named Person service provider. This would help the new Named Person service provider and managing authority to consider the child's wellbeing needs, and support a smooth transition for the child and parents.

13.9.11 In all circumstances, the review of the Child's Plan and the process for transferring the management of the Plan should ensure that:

- a) the Named Person service is involved in discussion and preparation for transfer of the Plan;
- b) the child and parents are involved in the review as outlined in section 39 (2)(b) and kept informed of the arrangements to transfer management of the Plan; and
- c) continuity of support for the child's wellbeing remains at the forefront throughout the transfer process.

13.9.12 Where the transfer of management of the Child's Plan is required, this should take place as soon as reasonably practicable. If after following the above processes a dispute exists between relevant authorities as to who should be the managing authority for a Child's Plan this should be resolved quickly by chief officers of the relevant authorities wherever possible.

13.9.13 Practice materials will be developed to support transfer of Child's Plan where other statutory and non-statutory process are involved.

13.10 Section 40 – Assistance in relation to Child's Plan

13.10.1 This section places a duty on relevant and listed authorities (those in schedule 3) to comply with any reasonable request for information, advice or assistance from anyone exercising functions under Part 5 of the Act. In practice, any such request is likely to come from the Named Person (acting on behalf of the responsible authority) or a Lead Professional (acting on behalf of the managing authority). However, the Act allows for such a request to come from a person acting on behalf of a relevant authority, or a person acting on behalf of an organisation carrying out functions under arrangement by a relevant authority. This will include

those involved in the delivery of a targeted intervention, such as a third sector organisation

13.10.2 A relevant authority or listed authority must comply with the request unless to do so would:

- a) be incompatible with other duties of the relevant or listed authority (for example, not part of the service provided, not within their power or responsibility to provide or in conflict with an existing legal obligation they must comply with); or
- b) unduly prejudice the exercise of any function of the relevant or listed authority (for example by compromising equity of provision).

13.10.3 Relevant and listed authorities should have processes and procedures in place to manage requests for assistance under this part of the Act. These should include a process for giving a reasoned justification if they refuse to comply with the request, offering professional dialogue where a request for assistance is declined, or where alternative help is suggested or offered.

Providing information in breach of a duty of confidentiality

13.10.4 Section 40 specifically provides for the disclosure of information between authorities exercising Child's Plan functions. This does not require or permit the breaching of any rule of law or legislation on information sharing. The only exception to this is in relation to a duty of confidentiality. The Act permits the appropriate sharing of information in breach of a duty of confidentiality in response to any reasonable request made by a person exercising functions under Part 5 of the Act. Any information sharing must be within the established framework of Scottish, United Kingdom and European law including the Data Protection Act 1998 (the [DPA](#)) and the European Convention on Human Rights ([ECHR](#)). Children's and young people's rights are also clearly set out in the United Nations Convention on the Rights of the Child ([UNCRC](#)). Where someone receives information under section 40 in breach of a duty of confidentiality, and the relevant or listed authority informs the recipient of the breach of duty, they are not permitted to share it further unless this further disclosure would be permitted by law. This offers a safeguard against possible inappropriate further sharing of information in breach of a duty of confidentiality.

13.10.5 When sharing information in accordance with this section, consideration should be given to whether there are any restrictions on the disclosure of information, the potential risk to a child or an adult should personal details be disclosed and whether or not any non-disclosure provision applies.

[See non-disclosure provisions in the 2011 Act](#)

13.11 Section 41 – guidance on Child's Plans

13.11.1 Section 41 of the Act specifies that relevant authorities and listed authorities must have regard to this guidance, issued by Scottish Ministers, about the exercise of functions under Part 5 of the Act (other than the function of complying with section 38).

13.11.2 Before issuing or revising guidance under section 41, the Scottish Ministers must consult anyone it relates to, and anyone else they consider appropriate.

13.12 Section 42 – directions in relation to Child’s Plan

13.12.1 Section 42 of the Act gives Scottish Ministers power to issue directions about the exercise of Part 5 functions.

13.12.2 Section 42 says that relevant authorities and listed authorities (subject to the exceptions listed in section 44) must comply with any directions issued by the Scottish Ministers about the exercise of Part 5 functions (other than the function of complying with Section 38).

13.12.3 Before issuing or revoking a direction, the Scottish Ministers must consult anyone it relates to, and any other people they consider appropriate.

13.13 Section 43 – complaints in relation to Part 5

13.13.1 This section creates an order-making power for the Scottish Ministers to make provision about the making, consideration and determination of complaints about the exercise of Part 5 functions. Any complaints about the exercise of functions under this Part should be pursued via the process as set out in this Order.

13.14 Section 44 – listed authorities

13.14.1 The listed authorities are in schedule 3 to the Act.
[See schedule 3](#)

13.14.2 Scottish Ministers are a listed authority for all sections of Part 5 excluding sections 41 and 42. This exclusion is because Scottish Ministers cannot be subject to guidance or directions issued by Scottish Ministers.

13.14.3 The following bodies are considered to be listed authorities for all sections of Part 5 excluding section 42:

- the Commissioner for Children and Young People in Scotland; and
- a body which is a ‘post-16 education body’ for the purposes of the 2005 Act.

These two bodies are required to have a degree of independence and therefore cannot be subject to the direction of Scottish Ministers as laid out in section 42.

13.14.4 The Act gives Scottish Ministers the power by order to add, remove or modify an entry in schedule 3, therefore changing the schedule of listed authorities.

13.14.5 As outlined in Section 40, the bodies included are listed authorities since it is considered that in the course of their normal operation, they may be able, by taking action, to respond to a reasonable request for assistance made by a person in the exercise of their functions under this part of the Act, as described in paragraphs [13.10.1](#) – [13.10.5](#) above.

Annex A – Description of terms

This guidance uses a number of terms introduced by Parts 4 and 5 of the Act, or used in the secondary legislation (Named Persons and Child’s Plan Orders). The following definitions and explanations should be helpful in reading the guidance:

‘as far as reasonably practicable’

This phrase is used in both Parts 4 and 5 of the Act and guidance to qualify aspects of the duties. It means that in exceptional circumstances there may be legitimate reasons why it is not possible or advisable to comply with the duty. The intention of the Act and the guidance is to ensure that the duty is complied with consistently and in almost all circumstances but to avoid imposing impossible or inadvisable duties on bodies which could have adverse impact on the wellbeing of children.

Child and young person

Child

The provisions in Parts 4 and 5 of the Act refer to ‘child’. For the purposes of the duties outlined in this Act, an individual is a child from birth until their 18th birthday. This means that when reading this guidance, ‘child’ is used throughout to refer to all individuals up until their 18th birthday.

Young Person

Section 22 (2) of the Act introduces the term young person which applies only to individuals who have attained their 18th birthday and continue to attend school. For the period they remain on the school roll beyond their 18th birthday, they are referred to as a young person and the duties within Part 4 only of the Act continue to apply to them.

There is no reference to ‘young person’ in Part 5, as the Child’s Plan statutory duties only apply to individuals up until their 18th birthday.

Directing authority

This term is used in Part 4 and Part 5 of the Act in relation to independent and grant-aided schools, and to secure accommodation, as follows:

A directing authority means-

the managers of a grant-aided school;

the proprietors of an independent school; and

the local authority or a person who manages a residential establishment that houses secure accommodation.

Educational and personal support

The Named Persons Order and guidance specify that the Named Person for children and young people of school age, for whom a local authority or directing authority is the Named Person service provider, should have experience in providing educational

and personal support to children and young people. This should be understood within the context of Curriculum for Excellence, which provides the framework to support children and young people to develop the knowledge, skills and aptitudes for learning, life and work. This applies across all stages of education, regardless of the context and to post-school participation options.

Lead Professional

Where there is a need for one or more targeted interventions to meet the wellbeing needs of a child (and hence there is a requirement for a Child's Plan), the managing authority will identify a Lead Professional to ensure that the Child's Plan is managed in accordance with section 39 of the Act and the Child's Plan Order. There will be times when the Named Person becomes the Lead Professional, but it may be more appropriate for another professional to take on this role. There should be local protocols in place to support decision making in relation to identifying a Lead Professional. Where a child is looked after, the local authority which has responsibility for the child under the 1995 Act will take on the role of managing authority for the Child's Plan, and the Lead Professional is likely to be a social worker. Where there is a Lead Professional, the role of the Named Person will continue and there should be local protocols in place to link the roles of the Named Person and the Lead Professional. The guidance on Part 4 of the Act makes reference to the Lead Professional role which is further explained in Part 5.

Listed authority

The term 'listed authority' applies only to Part 5 of the Act and the guidance. The listed authorities are the bodies in [schedule 3](#), who have duties outlined in section 40 of the Act, to provide information, advice or assistance in relation to a Child's Plan.

Managing authority

When the term 'managing authority' is used in Part 5 of the Act, Child's Plan Order and guidance it refers to the authority which prepared the Child's Plan or the authority to which the management of the Child's Plan has been transferred after its preparation or the local authority that has responsibility for a looked after child.

Named Person service

Section 19 (1) of the Act introduces the term 'Named Person service'. This means the organisational arrangements and systems which service providers will need to put in place to provide a Named Person for every child and young person for whom they have responsibility, and to support the role and functions of the identified Named Person. Service providers will be local authorities, health boards, directing authorities and the Scottish Prison Service. The Named Person service provides the structure within which the identified Named Person will carry out the functions on behalf of their organisation. When the guidance refers to the 'Named Person service provider' this means the organisation providing the Named Person, *not* the identified individual carrying out the Named Person role. This is an important distinction, as the legal duties fall on the *organisation* providing the Named Person service, *not* on the individual practitioner taking on the functions of Named Person.

Parent

Throughout Parts 4 and 5 when the term ‘parent’ is used, it has the same meaning as in the Education (Scotland) Act 1980 (the 1980 Act).

Section 135 (1) of the 1980 Act states that ‘parent’ includes a guardian and any person who is liable to maintain or has parental responsibilities (within the meaning of section 1 (3) of the Children (Scotland) Act 1995) in relation to, or has the care of a child or young person.

Although the legal term used throughout the Act is ‘parent’ in the singular, as the definition above shows where more than one individual has parental rights and responsibilities, liability to maintain the child or has the care of a child, the expectation would be that all are consulted and involved in decisions and activities aimed at supporting the child. There will be exceptions to this relating to the interests of the child’s wellbeing, or their rights in relation to confidentiality.

Promoted post

In relation to the Named Person service for children on a school roll, the Named Persons Order and guidance specify that the identified Named Person should hold a promoted post. In this context, promoted post means an individual who holds one of these posts - Principal Teacher, Faculty Head, Deputy Head Teacher or Head Teacher.

Regular forces

The term ‘regular forces’ is defined in section 374 of the Armed Forces Act 2006 as meaning the Royal Navy, the Royal Marines, the regular army or the Royal Air Force. The Named Person service does not require to be made available for a child who is a member of any of the regular forces. The requirement for a Child’s Plan does not apply to a child who is a member of the regular forces.

Relevant authority

For the purposes of **Part 4** the public bodies listed in [schedule 2](#) to the Act are called ‘relevant authorities’. They have duties to share information with and help the Named Person service provider.

In **Part 5** the term ‘relevant authority’ is used to mean any:

- health board;
- local authority; or
- directing authority.

In relation to Part 5, a relevant authority may:

- a) provide one or more targeted interventions in relation to a Child’s Plan (either directly or by arrangement with a third party);
- b) in some circumstances, be responsible for preparing a Child’s Plan (where it is agreed with the responsible authority that this would be appropriate); or
- c) manage a child’s plan (as the ‘managing authority’ – see above for the definition of ‘managing authority’).

Reserve forces/Service law

'Reserve forces' and 'subject to service law' have the meaning given by section 374 of the Armed Forces Act 2006. The reserve forces are the Royal Fleet Reserve, the Royal Naval Reserve, the Royal Marines Reserve, the Army Reserve, the Territorial Army, the Royal Air Force Reserve and the Royal Auxiliary Air Force. Section 19 (6) of the Act specifies that the Named Person functions do not operate during any time when a child or young person is subject to service law as a member of the reserve forces – in other words, when they are on training or duty with them.

Responsible authority

For the purposes of Part 5, the responsible authority is the authority which is responsible for deciding whether a child requires a Child's Plan, and, in most circumstances is responsible for preparing it. The responsible authority for a Child's Plan may be a health board, a local authority or a directing authority .

Service provider

When the term 'service provider' is used generally in Part 4 it means:

- each health board;
- each local authority;
- each directing authority; and
- the Scottish Prison Service.

Targeted intervention/services that are generally available

For the purposes of Part 5 the need for a targeted intervention to address a wellbeing need is the trigger for initiating the process leading to the preparation of a Child's Plan. A 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. As such, a distinction needs to be drawn between targeted interventions and services that are generally available. It will be for each health board, local authority and directing authority to indicate which services and support are generally available.

Annex B – Named Person service for the new-born – wellbeing of pregnant women

All children in Scotland should get the best possible start in life. Even before they are born there is much that can be done to promote their wellbeing. Maternity care has a vital role to play in providing women, their partners and their babies with the care and support they need at this important time. Although Parts 4 and 5 of the Act do not apply to pregnant women – unless they themselves are a child or young person – the wellbeing needs of a new-born child should be anticipated and plans put in place to promote, support and safeguard their wellbeing at birth. The pregnant woman should be fully involved in planning care and support for her and her baby.

Evidence tells us that maternal and parental circumstances and behaviour during pregnancy have an impact on children's outcomes. Poverty and socio-economic disadvantage of the pregnant woman and the family in the post-natal period are known to be associated with poorer outcomes for the child. Risk factors like alcohol and drug misuse, domestic abuse and smoking as well as diet and maternal nutrition all have an impact on health outcomes at birth, in infancy, and throughout the course of life. Crucially we now know that there is a strong link between ante-natal anxiety and maternal depression, resulting in poorer outcomes for children (including development, parental bonding and behavioural problems).

Health boards should have systems and processes in place to promote and support the practice of working with women and their families pre-birth using strengths-based approaches to harness the high levels of motivation women have to do what's best for their babies. This will include identifying and managing the potential risk of particular circumstances and behaviour that may impact on the wellbeing of the pregnant woman and her unborn child.

In anticipating the needs of the new-born, the GIRFEC National Practice Model will help support the identification of concerns, assessment of needs and agreeing of actions and outcomes, based on the wellbeing indicators. Where possible, health boards should take action to remove or reduce anticipated wellbeing risks to the new-born. This may include coordinated pre-birth planning with partners such as social services.

Practice to promote, support and safeguard a child's wellbeing at birth

From the first time a pregnant woman, makes contact with health services, practitioners should consider if her wellbeing and/or circumstances may already be affecting the unborn child or could affect the new-born's wellbeing. The principles of the GIRFEC National Practice Model should be applied when considering the pregnant woman's wellbeing and the anticipated wellbeing risks and needs of the new-born. Relevant and proportionate action should be taken to eliminate, reduce or mitigate risks to the wellbeing of the pregnant woman and the new-born.

As soon as reasonable practicable, but not later than at 28 weeks' gestation, the health board should identify who will be the baby's prospective Named Person when they are born. This will normally be the health visitor or a family nurse (where one is

identified), but in exceptional circumstances it may be a nurse of a different designation, a midwife or a medical practitioner.

At around 32 weeks' gestation, but not later than 36 weeks' gestation, all pregnant women should be offered contact with the prospective Named Person for their baby. Where additional wellbeing needs are anticipated at birth, the health board should identify the prospective Named Person for the baby as soon as reasonably practicable following 'booking'. A joint contact with their named midwife or the clinician leading on maternity care should also be considered.

The identified prospective Named Person should, where possible, be involved in planning and providing supports to eliminate, reduce or mitigate risks to wellbeing. This will establish a relationship in the ante-natal period that can be continued throughout the early years.

When a pregnant woman's (or anticipated baby's) needs will require coordinated support that is not generally available from the routine service, a single or multi-agency plan should be initiated as appropriate. Ante-natal planning should be developed in partnership with the pregnant women. This planning should inform the Child's Plan that will be put in place after birth. At times it will be good practice to develop a draft Child's Plan before birth. This would be appropriate where, for example, there are child protection concerns or where the baby is expected to be born with significant health needs. In this case it would also be appropriate to identify a prospective Lead Professional to manage the Child's Plan from birth. During the ante-natal period, the prospective Lead Professional may work with the named midwife/clinician leading on maternity care as well as the prospective Named Person to plan and co-ordinate support.

Annex C – Content of the Child’s Plan

Information to be included in a Child’s Plan

Section 34 of the Act states that a Child’s Plan is to contain a statement of:

- a) the child’s wellbeing need;
- d) the targeted intervention which requires to be provided, or the targeted interventions which require to be provided, in relation to the child; and
- e) in relation to each targeted intervention:
 - i. the relevant authority which is to provide the targeted intervention;
 - ii. the manner in which the targeted intervention is to be provided; and
 - iii. the outcome in relation to the child’s wellbeing need which the targeted intervention is intended to achieve.

The draft Child’s Plan (Scotland) Order 2016 further specifies that a Child’s Plan should include the following information:

- a) information regarding the matters specified in Schedule 1, insofar as applicable to the child;
- f) any information which is required to be included in a child’s plan by virtue of guidance issued under section 41 of the 2014 Act; and
- g) a record of any wellbeing needs which the child has, and any action taken or to be taken to address those needs which is contained in any of the following:
 - i. a plan prepared in respect of the child under regulation 5 of the 2009 Regulations;
 - ii. a plan prepared for the child under section 9 of the 2004 Act;
 - iii. a pathway plan relating to the child which has been prepared in accordance with the 2003 Regulations; and
 - iv. any other plan prepared in respect of the child (whether under an enactment or otherwise), which contains information relevant to the child’s wellbeing needs.

Schedule 1 contains further detail as to the Child’s Plan content as follows:

Child’s Plan – content

Demographic section

- Date of child’s plan
- Child’s full name
- Child’s Date of Birth
- Reference numbers unique to the child, such as
 - CHI No.
 - SW Number
 - Education number

- Child's home address

Relationship section

- Name(s) and address(es) of child's parents and/or carers
- Child's named person and their contact details
- Lead professional for the child's plan and their contact details

Assessment of wellbeing section

- Summary of child's wellbeing needs, and action to be taken to address those needs
- Summary of assessment(s) carried out in relation to the child's wellbeing
- Child's views in relation to wellbeing assessment(s)
- Views of the child's parents/carers in relation to wellbeing assessment(s)
- Views of any other persons who contributed to wellbeing assessment(s)
- Conclusions and recommendations of any wellbeing assessment(s)
- Note of any disagreements about the assessment(s), conclusions or recommendations

Action Plan section

- In relation to each of the child's wellbeing needs:
 - The nature of the need
 - The action to be taken to address it, including targeted intervention(s) to be provided
 - The desired outcome from the action to be taken, [including indicators to show when that outcome will be achieved]
 - Person(s) responsible for taking actions and providing targeted intervention(s)
 - Timescales for taking action

Review/closure section

- Date of next scheduled review of child's plan
- Child's plan closure date and reason for closure (where appropriate)