

CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – Provision of named persons

Section 26 – Information sharing

67. Subsections (1) and (2) provide that a service provider or relevant authority (as listed in schedule 2) must provide to the service provider in relation to a child or young person information which it holds if it considers that: it is likely to be relevant to the exercise of the named person functions; it ought to be provided for that purpose; and its provision would not prejudice the conduct of any criminal investigation or the prosecution of any offence.
68. Subsections (3) and (4) provide that a service provider in relation to a child or young person must provide, to a service provider or relevant authority, any information which it holds that is likely to be relevant to the exercise of any function of the service provider or relevant authority which affects or may affect the wellbeing of the child or young person. This applies where the service provider in relation to the child or young person considers that the information ought to be provided for that purpose and where its provision would not prejudice the conduct of any criminal investigation.
69. Subsection (5) requires that, in establishing whether information ought to be shared, the information holder is, so far as reasonably practicable, required to ascertain and have regard to the views of the child or young person. In having regard to the views of a child, the information holder is to take account of their age and maturity (subsection (6)). Subsection (7) provides that the information holder can only decide that information ought to be shared, for the purpose of subsection (2)(b) or (4)(b), if the likely benefit to the child or young person's wellbeing in doing so outweighs any likely adverse effect on their wellbeing.
70. Subsections (8) and (9) provide that the named person service provider may provide to a service provider or relevant authority any information they hold which is necessary or expedient to help them carry out their named person role.
71. Subsection (11) makes it clear that section 26 does not permit or require the sharing of information in breach of any legal prohibition or restriction on the disclosure of information, except a duty of confidentiality.