

POLICY NOTE

THE NAMED PERSONS (TRAINING, QUALIFICATIONS, EXPERIENCE AND POSITION) (SCOTLAND) ORDER 2016

SSI 2016/16

The above instrument is made in exercise of the powers conferred by sections 19(3)(b) and 99(1)(a) of the Children and Young People (Scotland) Act 2014. The instrument is subject to negative procedure.

Policy Objectives

1. Part 4 of the Children and Young People (Scotland) Act 2014 (“the Act”) concerns the provision of named persons, and sets out the duty of health boards, local authorities, directing authorities (of independent or grant-aided schools and residential establishments comprising secure accommodation), and the Scottish Ministers (via the Scottish Prison Service) to make arrangements to provide a named person service for particular children and young people (that is, to identify an individual to exercise the named person functions in relation to those children or young people).
2. This instrument specifies the requirements as to training, qualifications, experience and position that need to be met in order to be identified as the named person for a child or young person for the purpose of Part 4 of the Act.
3. In terms of sections 20-22 of the Act, different bodies are under a duty to make arrangements to make a named person service available to children and young people in particular circumstances – for example, in relation to pre-school children, children of school age, children in legal custody or secure accommodation and young people who attend school. Accordingly, different provision is made in the Order to specify who can be identified as a named person in each situation. In any case, it is a requirement that the individual has undertaken training in relation to carrying out the functions of a named person.
4. The policy objective is that this instrument will provide clarity about the training, qualifications, experience and position a person must have in order to be a named person for a child or young person in any case where a named person is to be identified.

Consultation

5. A public consultation on the draft instrument took place between February and May 2015. This was part of a wider consultation on the implementation of Parts 4 and 5 of the Act, covering draft statutory guidance and two draft Orders (including this one). The consultation exercise included three regional events, plus workshops, focus groups and meetings. Responses were received from 133 individuals and 149 organisations.
6. Following the public consultation, engagement with stakeholders (in particular, those representing organisations that have duties under Part 4 of the Act), continued until November 2015.

7. The following points were made during this extended consultation:
 - Confirmation that the named person for pre-school children should have undertaken and completed training which includes assessing the speech, language and communication abilities and needs of children and adults. Article 2(3) of the instrument was revised accordingly;
 - That local authorities should have flexibility to identify an appropriate named person for groups such as home educated children and children who leave school before their 18th birthday. Revision and refinement of article 2(6)(b) now provides the flexibility required;
 - That clear provision should be made to identify an appropriate named person in situations where the relationship between a school-age child, young person, or their parent, and the named person has broken down and it is not possible to identify an alternative named person in the school. The instrument has been revised to include article 2(8) and (9), which provide for the identification of a named person in exceptional circumstances; and
 - That there should be clarity on who can be a named person for a child in legal custody. Article 2(5) of the instrument was revised accordingly.

8. A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website. It includes health boards, local authorities, the Scottish Council of Independent Schools, the Royal College of Speech and Language Therapists, the Royal College of Nursing, the Association of Directors of Education in Scotland, Social Work Scotland, child protection committees and 53 third sector organisations.

Impact Assessments

9. An Equality Impact Assessment (EQIA), a Business and Regulatory Impact Assessment (BRIA) and a Privacy Impact Assessment (PIA) were completed on the Children and Young People (Scotland) Bill prior to its introduction to Parliament. No further impact assessments have been completed in relation to this instrument, as the instrument will not alter the impact of the original Bill.

Financial Effects

10. The financial effects of this instrument relate to the training required in order for a person to be identified as a named person. Details of the anticipated costs of named person training to health boards, local authorities and directing authorities are set out in the Financial Memorandum for the Bill, which was developed in conjunction with key stakeholder bodies including COSLA.

11. The Minister for Children and Young People confirms that no further Business and Regulatory Impact Assessment (BRIA) is necessary as, in line with the Financial Memorandum, the Scottish Government will fully fund the additional costs of measures in the 2014 Act.