



Children and Young People (Scotland) Act 2014

2014 asp 8

PART 4

PROVISION OF NAMED PERSONS

19 Named person service

- (1) In this Part, “named person service” means the service of making available, in relation to a child or young person, an identified individual who is to exercise the functions in subsection (5).
- (2) An individual may be identified for the purpose of a named person service only if the individual falls within subsection (3).
- (3) An individual falls within this subsection if—
 - (a) the individual—
 - (i) is an employee of the service provider, or
 - (ii) is, or is an employee of, a person who exercises any function on behalf of the service provider, and
 - (b) the individual meets such requirements as to training, qualifications, experience or position as may be specified by the Scottish Ministers by order.
- (4) An individual does not fall within subsection (3) if the individual is a parent of the child or young person.
- (5) The functions referred to in subsection (1) are—
 - (a) subject to subsection (6), doing such of the following where the named person considers it to be appropriate in order to promote, support or safeguard the wellbeing of the child or young person—
 - (i) advising, informing or supporting the child or young person, or a parent of the child or young person,
 - (ii) helping the child or young person, or a parent of the child or young person, to access a service or support, or

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- (iii) discussing, or raising, a matter about the child or young person with a service provider or relevant authority, and
- (b) such other functions as are specified by this Act or any other enactment as being functions of a named person in relation to a child or young person.
- (6) The function in subsection (5)(a) does not apply in relation to a matter arising at a time when the child or young person is, as a member of any of the reserve forces, subject to service law.
- (7) The named person functions are exercised on behalf of the service provider concerned.
- (8) Responsibility for the exercise of the named person functions lies with the service provider rather than the named person.

20 Named person service in relation to pre-school child

- (1) A health board is to make arrangements for the provision of a named person service in relation to each pre-school child residing in its area.
- (2) A “pre-school child” is a child who—
 - (a) has not commenced attendance at a primary school, and
 - (b) if the child is of school age, has not commenced attendance at a primary school because the relevant local authority has consented to the child’s commencement at primary school being delayed.
- (3) For the purposes of this section—
 - (a) the reference to school age is to be construed by reference to the school commencement dates fixed by the relevant local authority,
 - (b) references to attendance at a primary school do not include attendance at a nursery class in such a school,
 - (c) references to the relevant local authority are to the local authority for the area in which the child concerned resides.

21 Named person service in relation to children not falling within section 20

- (1) A local authority is to make arrangements for the provision of a named person service in relation to each child residing in its area, other than—
 - (a) a pre-school child, or
 - (b) a child falling within subsection (2) or (4).
- (2) A child falls within this subsection if the child is—
 - (a) a pupil at a public school which is managed by a different local authority,
 - (b) a pupil at—
 - (i) a grant-aided school, or
 - (ii) an independent school,
 - (c) kept in secure accommodation, or
 - (d) in legal custody or subject to temporary release from such custody.
- (3) For the purposes of subsection (2)(d), a child is in legal custody—
 - (a) while confined in or being taken to or from any penal institution in which the child may be lawfully confined,

- (b) while working, or for any other reason, outside the penal institution in the custody or under the control of an officer of the institution, a constable or a police custody and security officer,
 - (c) while being taken to any place to which the child is required or authorised to be taken by virtue of the Prisons (Scotland) Act 1989, or
 - (d) while kept in custody in pursuance of such a requirement or authorisation.
- (4) A child falls within this subsection if the child is a member of any of the regular forces.
- (5) During any period when a child falls within subsection (2)(a), the local authority which manages the school concerned is to make arrangements for the provision of a named person service in relation to the child.
- (6) During any period when a child falls within subsection (2)(b) or (c), the directing authority of the establishment concerned is to make arrangements for the provision of a named person service in relation to the child.
- (7) During any period when a child falls within subsection (2)(d), the Scottish Ministers are to make arrangements for the provision of a named person service in relation to the child.

22 Continuation of named person service in relation to certain young people

- (1) A person mentioned in subsection (3) is to make arrangements for the provision of a named person service in relation to each young person.
- (2) A “young person” is a person who—
- (a) attained the age of 18 years while a pupil at a school, and
 - (b) has since attaining that age, remained a pupil at that or another school.
- (3) The person referred to in subsection (1) is—
- (a) where the young person is a pupil at a school managed by a local authority, that authority,
 - (b) where the young person is a pupil at a grant-aided school or an independent school, the directing authority of the establishment concerned.

23 Communication in relation to movement of children and young people

- (1) This section applies where a person ceases to be the service provider in relation to a child or young person.
- (2) The person (“the outgoing service provider”) must as soon as is reasonably practicable—
- (a) inform any other person which has become or which it considers may be the service provider in relation to the child or young person (“the incoming service provider”) that the outgoing service provider has ceased to be the service provider in relation to the child or young person, and
 - (b) provide the incoming service provider with—
 - (i) 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
 - (ii) all information which the outgoing service provider holds which falls within subsection (3).

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- (3) Information falls within this subsection if the outgoing service provider considers that—
- (a) it is likely to be relevant to—
 - (i) the exercise by the incoming service provider of any functions of a service provider under this Part, or
 - (ii) the future exercise of the named person functions in relation to the child or young person,
 - (b) it ought to be provided for that purpose, and
 - (c) its provision would not prejudice the conduct of a criminal investigation or the prosecution of any offence.
- (4) In considering for the purpose of subsection (3)(b) whether information ought to be provided, the outgoing service provider is so far as reasonably practicable to ascertain and have regard to the views of the child or young person.
- (5) In having regard to the views of a child under subsection (4), an outgoing service provider is to take account of the child's age and maturity.
- (6) The outgoing service provider may decide for the purpose of subsection (3)(b) that information ought to be provided only if the likely benefit to the wellbeing of the child or young person arising in consequence of doing so outweighs any likely adverse effect on that wellbeing arising from doing so.
- (7) Other than in relation to a duty of confidentiality, this section does not permit or require the provision of information in breach of a prohibition or restriction on the disclosure of information arising by virtue of an enactment or rule of law.

24 Duty to communicate information about role of named persons

- (1) Each service provider must publish (in such manner as it considers appropriate) information about—
- (a) the operation of the named person service provided in pursuance of the arrangements made by it, including in particular—
 - (i) how the named person functions are, generally, exercised, and
 - (ii) the arrangements, generally, for contacting named persons,
 - (b) how the service provider generally exercises its functions under this Part, and
 - (c) such other matters relating to this Part as it considers appropriate.
- (2) The service provider in relation to a child or young person must provide the child or young person and the parents of the child or young person with information about the arrangements for contacting the named person for the child or young person—
- (a) as soon as reasonably practicable after it becomes the service provider in relation to the child or young person, and
 - (b) as soon as reasonably practicable after there is any change in those arrangements.

25 Duty to help named person

- (1) Subsection (2) applies where it appears to the service provider in relation to a child or young person that another service provider or a relevant authority could, by doing

a certain thing, help in the exercise of any of the named person functions for a child or young person.

- (2) The other service provider or relevant authority must comply with any request for such help which is made of it, unless subsection (3) applies.
- (3) This subsection applies where the other service provider or relevant authority considers that the provision of the help would—
 - (a) be incompatible with any duty of the other service provider or relevant authority, or
 - (b) unduly prejudice the exercise of any function of the other service provider or relevant authority.

26 Information sharing

- (1) A service provider or relevant authority must provide to the service provider in relation to a child or young person any information which the person holds which falls within subsection (2).
- (2) Information falls within this subsection if the information holder considers that—
 - (a) it is likely to be relevant to the exercise of the named person functions in relation to the child or young person,
 - (b) it ought to be provided for that purpose, and
 - (c) its provision to the service provider in relation to the child or young person would not prejudice the conduct of any criminal investigation or the prosecution of any offence.
- (3) The service provider in relation to a child or young person must provide to a service provider or relevant authority any information which the person holds which falls within subsection (4).
- (4) Information falls within this subsection if the information holder considers that—
 - (a) it 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,
 - (b) it ought to be provided for that purpose, and
 - (c) its provision to the service provider or relevant authority would not prejudice the conduct of any criminal investigation or the prosecution of any offence.
- (5) In considering for the purpose of subsection (2)(b) or (4)(b) whether information ought to be provided, the information holder is so far as reasonably practicable to ascertain and have regard to the views of the child or young person.
- (6) In having regard to the views of a child under subsection (5), an information holder is to take account of the child's age and maturity.
- (7) The information holder may decide for the purpose of subsection (2)(b) or (4)(b) that information ought to be provided only if the likely benefit to the wellbeing of the child or young person arising in consequence of doing so outweighs any likely adverse effect on that wellbeing arising from doing so.
- (8) The service provider in relation to a child or young person may provide to a service provider or relevant authority any information which the person holds which falls within subsection (9).

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- (9) Information falls within this subsection if the information holder considers that its provision to the service provider or relevant authority is necessary or expedient for the purposes of the exercise of any of the named person functions.
- (10) References in this section to a service provider or a relevant authority include any person exercising a function on behalf of a service provider or relevant authority.
- (11) Other than in relation to a duty of confidentiality, this section does not permit or require the provision of information in breach of a prohibition or restriction on the disclosure of information arising by virtue of an enactment or rule of law.

27 Disclosure of information

- (1) This section applies—
 - (a) where by virtue of this Part, a person provides information in breach of a duty of confidentiality, and
 - (b) in providing the information, the person informs the recipient of the breach of duty.
- (2) The recipient is not to provide the information to any other person, unless the provision of information is permitted or required by virtue of any enactment (including this Part) or rule of law.

28 Guidance in relation to named person service

- (1) A person mentioned in subsection (2) must have regard to any guidance issued by the Scottish Ministers about the exercise of functions conferred by this Part.
- (2) Those persons are—
 - (a) a local authority,
 - (b) a health board,
 - (c) a directing authority,
 - (d) a relevant authority.
- (3) Before issuing or revising guidance, the Scottish Ministers must consult—
 - (a) any person to which it relates, and
 - (b) such other persons as they consider appropriate.

29 Directions in relation to named person service

- (1) A person mentioned in subsection (2) must comply with any direction issued by the Scottish Ministers about the exercise of functions conferred by this Part.
- (2) Those persons are—
 - (a) a local authority,
 - (b) a health board,
 - (c) a directing authority,
 - (d) a relevant authority.
- (3) Before issuing, revising or revoking a direction, the Scottish Ministers must consult—
 - (a) any person to which it relates, and
 - (b) such other persons as they consider appropriate.

30 Complaints in relation to Part 4

- (1) The Scottish Ministers may by order make provision about the making, consideration and determination of complaints concerning the exercise of functions conferred by or under this Part.
- (2) The provision which may be made under subsection (1) includes provision about—
 - (a) matters which may, or may not, be the subject of a complaint,
 - (b) who may make a complaint,
 - (c) how a complaint may be made,
 - (d) time limits for making complaints,
 - (e) steps which require to be taken before a complaint may be made,
 - (f) who is to consider a complaint,
 - (g) the procedure for the consideration of a complaint,
 - (h) the obtaining of information for the purpose of considering a complaint,
 - (i) the keeping of records in relation to complaints or their consideration,
 - (j) the making of findings, and reporting, following the consideration of a complaint.
- (3) An order under subsection (1) may modify any enactment.

31 Relevant authorities

- (1) The persons listed, or within a description listed, in schedule 2, are “relevant authorities” for the purposes of this Part (subject to subsection (3)).
- (2) The Scottish Ministers may by order modify schedule 2 by—
 - (a) adding a person or description of persons,
 - (b) removing an entry listed in it, or
 - (c) varying an entry listed in it.
- (3) The following persons are not relevant authorities for the purposes of section 29—
 - (a) the Commissioner for Children and Young People in Scotland,
 - (b) a body which is a “post-16 education body” for the purposes of the Further and Higher Education (Scotland) Act 2005.
- (4) An order under subsection (2) which adds a person, or a description of persons, to schedule 2, may modify this section so as to provide that the person is not a relevant authority, or the persons within the description are not relevant authorities, for the purposes of section 29.

32 Interpretation of Part 4

In this Part—

“constable” has the same meaning as in section 13(b) of the Prisons (Scotland) Act 1989,

“directing authority” means—

- (a) when used generally, each of the following—
 - (i) the managers of each grant-aided school,
 - (ii) the proprietor of each independent school, and

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- (iii) the local authority or other person who manages each residential establishment which comprises secure accommodation,
 - (b) when used in relation to a particular establishment—
 - (i) in relation to a grant-aided school, the managers of the school,
 - (ii) in relation to an independent school, the proprietor of the school,
 - (iii) in relation to secure accommodation, the local authority or other person who manages the residential establishment,
- “named person” means the identified individual made available in pursuance of a named person service,
- “named person functions” means the functions to be exercised by way of the named person service,
- “parent” has the same meaning as in the 1980 Act,
- “penal institution” means any—
- (a) prison (other than a naval, military or air force prison),
 - (b) remand centre (within the meaning of section 19(1)(a) of the Prisons (Scotland) Act 1989), or
 - (c) young offenders institution (within the meaning of section 19(1)(b) of the Prisons (Scotland) Act 1989),
- “pre-school child” has the meaning given by section 20(2),
- “regular forces” has the meaning given by section 374 of the Armed Forces Act 2006,
- “reserve forces” has the meaning given by section 374 of the Armed Forces Act 2006,
- “secure accommodation” means accommodation provided in a residential establishment, approved in accordance with regulations made under section 78(2) of the Public Services Reform (Scotland) Act 2010, for the purpose of restricting the liberty of children,
- “service provider” means—
- (a) when used generally, each of the following—
 - (i) each health board,
 - (ii) each local authority,
 - (iii) each directing authority, and
 - (iv) the Scottish Ministers,
 - (b) when used in relation to a child or young person, the person which has the function of making arrangements for the provision of a named person service in relation to the child or young person,
- “subject to service law” has the meaning given by section 374 of the Armed Forces Act 2006,
- “temporary release” means release by virtue of rules made under section 39(6) of the Prisons (Scotland) Act 1989,
- “young person” has the meaning given by section 22(2).