



# Children and Young People (Scotland) Act 2014

2014 asp 8

## PART 5

### CHILD'S PLAN

#### 33 Child's plan: requirement

- (1) For the purposes of this Part, a child requires a child's plan if the responsible authority in relation to a child considers that—
  - (a) the child has a wellbeing need, and
  - (b) subsection (3) applies in relation to that need.
- (2) A child has a wellbeing need if the child's wellbeing is being, or is at risk of being, adversely affected by any matter.
- (3) This subsection applies in relation to a wellbeing need if—
  - (a) the need is not capable of being met, or met fully, by the taking of action other than a targeted intervention in relation to the child, and
  - (b) the need, or the remainder of the need, is capable of being met, or met to some extent, by one or more targeted interventions in relation to the child.
- (4) A "targeted intervention" is a service which—
  - (a) is provided by a relevant authority in pursuance of any of its functions, and
  - (b) is directed at meeting the needs of children whose needs are not capable of being met, or met fully, by the services which are provided generally to children by the authority.
- (5) The references in subsection (4) to services being provided by a relevant authority include references to services provided by a third person under arrangements made by the relevant authority.
- (6) In deciding whether a child requires a child's plan, the responsible authority—
  - (a) is, where the child's named person is not an employee of the responsible authority, to consult the child's named person, and

- (b) is so far as reasonably practicable to ascertain and have regard to the views of—
  - (i) the child,
  - (ii) the child’s parents,
  - (iii) such persons, or the persons within such description, as the Scottish Ministers may by order specify, and
  - (iv) such other persons as the responsible authority considers appropriate.
- (7) In having regard to the views of the child, the responsible authority is to take account of the child’s age and maturity.
- (8) Subsection (1) does not apply in relation to—
  - (a) a child who already has a child’s plan,
  - (b) a child who is a member of any of the regular forces.
- (9) In subsection (8)(b), “regular forces” has the meaning given by section 374 of the Armed Forces Act 2006.

### **34 Content of a child’s plan**

- (1) A child’s plan is to contain a statement of—
  - (a) the child’s wellbeing need,
  - (b) the targeted intervention which requires to be provided, or the targeted interventions which require to be provided, in relation to the child, and
  - (c) in relation to each such 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.
- (2) A child’s plan may contain a targeted intervention only where the relevant authority which would provide it, or under whose arrangements it would be provided, agrees.
- (3) If that relevant authority is not to prepare the plan, it must provide to the person who is to prepare the plan a statement of its reasons for not agreeing.
- (4) The Scottish Ministers may by order make provision as to—
  - (a) other information which is, or is not, to be contained in child’s plans,
  - (b) the form of child’s plans.

### **35 Preparation of a child’s plan**

- (1) This section applies where a child requires a child’s plan.
- (2) Subject to subsections (3) and (5), the responsible authority is to prepare such a plan as soon as is reasonably practicable.
- (3) Where the responsible authority and a relevant authority agree that it would be more appropriate for the relevant authority to prepare a child’s plan, the relevant authority is to prepare the plan as soon as is reasonably practicable.
- (4) A relevant authority which declines to give its agreement as mentioned in subsection (3) must provide a statement of its reasons.

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- (5) Subsection (2) does not apply where, by virtue of section 34(2), there are no targeted interventions which may be contained in a child’s plan.
- (6) In preparing a child’s plan, an authority—
- (a) is, where the child’s named person is not an employee of the authority, to consult the child’s named person, and
  - (b) is so far as reasonably practicable to ascertain and have regard to the views of—
    - (i) the child,
    - (ii) the child’s parents,
    - (iii) such persons, or the persons within such description, as the Scottish Ministers may by order specify, and
    - (iv) such other persons as the authority considers appropriate.
- (7) In having regard to the views of the child, the authority preparing the child’s plan is to take account of the child’s age and maturity.
- (8) The Scottish Ministers may by order—
- (a) make further provision as to the preparation of child’s plans,
  - (b) make provision requiring or permitting the authority which prepared a child’s plan to provide a copy of it to a particular person or to the persons within a particular description.
- (9) An order under subsection (8)(b) may include provision to the effect that a copy of a child’s plan is to be provided to a person, or to persons within a particular description, only—
- (a) in circumstances described in the order, or
  - (b) where the authority considers it appropriate.

### **36 Responsible authority: general**

- (1) For the purposes of this Part, the responsible authority in relation to a child is—
- (a) where the child is a pre-school child, the health board for the area in which the child resides,
  - (b) where the child is not a pre-school child, the local authority for the area in which the child resides.
- (2) Subsection (1) is subject to section 37.
- (3) 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.
- (4) 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) the references to attendance at a primary school do not include attendance at a nursery class in such a school, and

- (c) the references to the relevant local authority are to the local authority for the area in which the child concerned resides.

### **37 Responsible authority: special cases**

- (1) Where in pursuance of a decision of a local authority or health board a pre-school child resides in the area of a health board which is different to that in which the child would otherwise reside, the health board for the area in which the child would otherwise reside is the responsible authority in relation to the child.
- (2) Where the child is a pupil at a public school which is managed by a local authority other than the one for the area in which the child resides, that other authority is the responsible authority in relation to the child.
- (3) Where the child is a pupil at a grant-aided school or an independent school, the directing authority of that school is the responsible authority in relation to the child.
- (4) Subsection (3) does not apply where the child is such a pupil by virtue of a placement by a local authority.
- (5) Where—
  - (a) the child falls within subsection (6), and
  - (b) in consequence the child resides in the area of a local authority which is different to that in which the child would otherwise reside,
 the local authority for the area in which the child would otherwise reside is the responsible authority in relation to the child.
- (6) A child falls within this subsection if—
  - (a) in pursuance of the duties of a local authority under the 1980 Act the child—
    - (i) is a pupil at a grant-aided school or an independent school, and
    - (ii) resides in accommodation provided for the purpose of attending that school by its managers,
  - (b) by virtue of Chapter 1 of Part 2 of the 1995 Act, the child is placed in a residential establishment (within the meaning of section 93 of that Act),
  - (c) by virtue of an order under the Children's Hearing (Scotland) Act 2011, the child resides at a residential establishment (within the meaning of section 202 of that Act), or
  - (d) in pursuance of an order under the Criminal Procedure (Scotland) Act 1995, the child is detained in residential accommodation provided under Part 2 of the 1995 Act.
- (7) The Scottish Ministers may by order modify this section so as to make further or different provision as to circumstances in which section 36(1) does not apply in relation to a child.

### **38 Delivery of a child's plan**

- (1) A relevant authority is so far as reasonably practicable—
  - (a) to provide any targeted intervention contained in a child's plan which is to be provided by it in accordance with the plan,

- (b) to secure that any targeted intervention contained in a child’s plan which is to be provided by a third person under arrangements made by the authority is provided in accordance with the plan.
- (2) Subsection (1) does not apply to the extent that the authority considers that to comply with it would adversely affect the wellbeing of the child.

### **39 Child’s plan: management**

- (1) The managing authority of a child’s plan is to keep under review whether—
- (a) the wellbeing need of the child stated in the plan is still accurate,
  - (b) in relation to each targeted intervention, it or the manner of its provision, is still appropriate,
  - (c) the outcome of the plan has been achieved, and
  - (d) the management of the plan should transfer to another relevant authority.
- (2) In reviewing a child’s plan, the managing authority—
- (a) is to consult—
    - (i) each other relevant authority to which subsection (3) applies,
    - (ii) where it is neither the managing authority nor consulted under subparagraph (i), the responsible authority in relation to the child, and
    - (iii) where the child’s named person is not an employee of the managing authority, the child’s named person, and
  - (b) is so far as reasonably practicable to ascertain and have regard to the views of—
    - (i) the child,
    - (ii) the child’s parents,
    - (iii) such persons, or the persons within such description, as the Scottish Ministers may by order specify, and
    - (iv) such other persons as the managing authority considers appropriate.
- (3) This subsection applies to a relevant authority if—
- (a) it is providing a targeted intervention contained in the plan, or
  - (b) a targeted intervention contained in the plan is being provided by a third person under arrangements made by the authority.
- (4) In having regard to the views of the child as mentioned in subsection (2)(b)(i), the managing authority is to take account of the child’s age and maturity.
- (5) The managing authority of a child’s plan may in consequence of the review—
- (a) amend the plan so as to revise—
    - (i) the wellbeing need of the child,
    - (ii) a targeted intervention,
    - (iii) the manner in which a targeted intervention requires to be provided, or
    - (iv) the outcome which the plan is intended to achieve,
  - (b) transfer the management of the plan to another relevant authority, or
  - (c) end the plan.
- (6) The Scottish Ministers may by order make provision about the management of child’s plans, including provision about—

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- (a) when and how a child’s plan is to be reviewed in accordance with subsection (1),
  - (b) who is to be the managing authority of a child’s plan,
  - (c) when and to whom management of a child’s plan is to or may transfer under subsection (5)(b),
  - (d) when and how a new targeted intervention may be included in a child’s plan,
  - (e) the keeping, disclosure and destruction of child’s plans.
- (7) Subject to provision made under subsection (6)(b), the managing authority of a child’s plan is—
- (a) the relevant authority which prepared it, or
  - (b) where management of the child’s plan has been transferred under subsection (5)(b), the relevant authority to which the management of the child’s plan was so transferred (or where there has been more than one such transfer, last so transferred).

#### **40 Assistance in relation to child’s plan**

- (1) A person mentioned in subsection (2) must comply with any reasonable request made of the person to provide a person exercising functions under this Part with information, advice or assistance for that purpose.
- (2) Those persons are—
  - (a) a relevant authority,
  - (b) a listed authority.
- (3) Subsection (1) does not apply where the person to whom the request is made considers that provision of the information, advice or assistance concerned would—
  - (a) be incompatible with any duty of the person, or
  - (b) unduly prejudice the exercise of any function of the person.
- (4) Other than in relation to a duty of confidentiality, subsection (1) 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.
- (5) Subsection (6) applies—
  - (a) where, by virtue of subsection (1), 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.
- (6) 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.

#### **41 Guidance on child’s plans**

- (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 or under this Part (other than the function of complying with section 38).
- (2) Those persons are—

- (a) a relevant authority,
  - (b) a listed 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.

#### **42 Directions in relation to child’s plans**

- (1) A person mentioned in subsection (2) must comply with any direction issued by the Scottish Ministers about the exercise of functions conferred by or under this Part (other than the function of complying with section 38).
- (2) Those persons are—
- (a) a relevant authority,
  - (b) a listed 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.

#### **43 Complaints in relation to Part 5**

- (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.

#### **44 Listed authorities**

- (1) The persons listed, or within a description listed, in schedule 3, are “listed authorities” for the purposes of this Part (subject to subsections (3) and (4)).
- (2) The Scottish Ministers may by order modify schedule 3 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 Scottish Ministers are not a listed authority for the purposes of sections 41 and 42.
- (4) The following persons are not listed authorities for the purposes of section 42—
  - (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.
- (5) An order under subsection (2) which adds a person, or a description of persons, to schedule 3, may modify this section so as to provide that the person is not a listed authority, or the persons within the description are not listed authorities, for the purposes of section 42.

## **45 Interpretation of Part 5**

In this Part—

“child’s named person” means the individual who is the child’s named person by virtue of Part 4,

“directing authority” means—

(a) when used generally—

- (i) the managers of each grant-aided school,
- (ii) the proprietor of each independent school,

(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,

“parent” has the same meaning as in the 1980 Act,

“relevant authority” means any—

- (a) health board,
- (b) local authority, or
- (c) directing authority,

“service” includes support,

“targeted intervention” has the meaning given by section 33(4).