

# SCRA Consultation Response FULL VERSION 2021

## GIRFEC GUIDANCE STAKEHOLDER CONSULTATION



The Scottish Children's Reporter Administration (SCRA) welcomes the opportunity to respond to this consultation.

The Children's Hearing is Scotland's distinct statutory approach, in which concerns about a child's circumstances (whether about the care or treatment of the child by adults or the behaviour of the child) are considered by Children's Reporters and then by panel members in a Children's Hearing, who make a decision about whether there needs to be compulsory professional involvement with the child and family.

### In the Children's Hearings System:

- the needs of children or young people are addressed through one holistic and integrated approach which considers all the circumstances of the child and the child's welfare
- the welfare of the child remains at the centre of all decision making and the child's best interests are paramount throughout
- the child's engagement and participation is crucial to good decision making
- the rights of children and families are respected

### The role and purpose of SCRA is:

1. Receiving referrals for children/young people who may be at risk.
2. Ensuring that other public agencies carry out enquiries and assessments into children/ young people's circumstances so we can make informed decisions about children/young people referred to us.
3. Making decisions on whether to refer a child/young person to a Children's Hearing if they need compulsory measures of supervision.
4. Drafting the grounds for the Hearing.
5. Arranging for Children's Hearings to take place when we decide that compulsory measures of supervision are warranted and where there is sufficient evidence to prove the grounds.
6. Ensuring fair process takes place within the Hearing, including the rights of those in attendance being met.
7. Having a key role in establishing grounds of referral in court, where these are contested, and in defending decisions of Children's Hearings which are subject to appeal.

**Our Vision:** Children and young people will be listened to, protected and supported to realise a positive future where they are safe, valued and respected.

**Our Mission:** We protect and support Scotland's children and young people, by making high quality decisions, upholding their rights and working collaboratively as compassionate, inclusive corporate parents to enable the most positive and personalised experience of the Children's Hearing.

**Our Values:** Our values are the shared motivations, beliefs and behaviours that underpin all that we do.

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<b>Supportive</b>	We work with kindness to support children, young people and families, our Partners and each other.
<b>Child Centred</b>	Children and young people are at the heart of everything we do.
<b>Respectful</b>	Everyone is respected and treated fairly, inclusively and lawfully.
<b>Accountable</b>	We are responsible for our decisions, our ethics and our learning.

### GIRFEC Policy Statement

1. How clear and easy is the statement to understand?

A little

2. Does the statement provide clarity on the refreshed values and principles of GIRFEC and its core components (sections 25-28)?

A little

3. Does the statement give practitioners confidence in the importance of embedding and implementing GIRFEC to improve outcomes for children and families?

A little

4. To what extent do you think that the statement will help practitioners understand how to embed the United Nations Convention on the Rights of the Child, and to protect, respect and uphold children's rights?

Not at all

5. Does the statement reflect the importance of the voice of the child and family?

Somewhat

6. Can you outline anything specific that would be helpful to add to this statement?

Please add your answer below

The statement is clear on the macro level thinking – but much less clear on the deliverables and front line actions which are required in order to either develop established approaches / embed approaches / consider planning for approaches. The statement makes the landscape feel a little difficult to navigate and perhaps this could be altered if the expectations in relation to practice were more clearly articulated. We understand the Guidance notes do this more explicitly – but perhaps this could be explained / referenced early in the policy statement – so that the reader knows exactly what the policy statement is there to do. At the moment that intention is unclear.

**Paragraph 6** feels out of place in the context of the other paragraphs – perhaps the final sentence could start the paragraph and the other sentences could be shorter?

**Paragraph 7** almost needs to state that relational practice is at the heart of GIRFEC before going on to consider the skills required from practitioners? The accompanying documents should be referenced either at the beginning or the end, the reference here reads like it is in the wrong place.

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**Paragraph 8** – the NPF feels like it should be referenced earlier in the document – as GIRFEC sits within the framework. The link between the model of the NPF and a GIRFEC model could really clarify the policy context and intention at the beginning of the document. It feels like the GIRFEC model is ‘missing’ at the moment.

**Paragraphs 9 -12** – on rights – whilst the content is sound it doesn’t feel integrated into the GIRFEC approach in the way it is framed here, which feels like a lost opportunity.

**Paragraph 13** – whilst we agree that making the conditions right is crucial we expect to see this policy statement explaining how this will be done, rather than rehearsing rhetoric. The following paragraphs talk about planning and the integration of GIRFEC, but there is a missed opportunity in relation to clearly stating the expectations of planning / plans and how the Government can support change to planning.

**Paragraph 23** – in our view should be earlier in the document and should come before the section on planning. It might help if the Policy Statement had a clearer structure. Eg:

- Context within NPF
- National Practice Model
- GIRFEC Model and continuum of need
- Key Values
- Wellbeing
- Rights
- Links to other areas (National CP Guidance / The Promise)
- Planning
- Reporting & outcome evaluation
- The Future

## Practice Guidance on the role of the named person

### 1. How clear and easy is the guidance to understand?

- A little

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2. Does the guidance provide clarity on the role of the named person in the implementation of GIRFEC?

- Not at all

3. Does the guidance help provide confidence and understanding for practitioners working in the role or alongside the named person?

- Not at all

4. To what extent do you think that the guidance will help practitioners understand how to embed the United Nations Convention on the Rights of the Child, and to protect, respect and uphold children's rights within the role of the named person?

- Not at all

5. Does the guidance reflect the importance of the voice of the child and family?

- A little

6. Can you outline anything specific that would be helpful to add to this guidance?

Please add your answer below

7. Are there any areas where the further development of resources or guidance would be helpful in supporting the role of the named person?

Please add your answer below

It seems important that there are hyperlinks within the document, particularly in the opening section – they aren't obvious which is why we are including the comment here.

The focus on framework and shared approach is the real strength of GIRFEC. We fully support this. We are not convinced in relation to the role of the named person, we think that links into advice and support could be done through the internet (The Parent Club website for example) or through the promotion of this work by people in the professional health or education team (depending on the age of the child) working with the child in universal service provisions. If the role can have a different name in different areas then we think it might be helpful to speak about the role in a different way, the 'named person' being linked to aspects of the 2014 legislation where there is an intention to repeal. It is also then potentially confusing to talk about the 'named person service'. We are not sure why the role of 'named person' for a child subject to secure care would alter to the secure care provider - and would argue that for some children this could mean a confusing transfer of responsibility at a time of crisis, when arguably they require consistency in terms of the team around them.

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Our preference would be for the purpose of linking to services and supports and developing trusting relationships the work intended as outlined for a 'named person' should sit with a professional from universal services. In this way the work does not exist as a 'universal named person service' instead it sits alongside the other expectations of universal service provision - and will make complete sense for children and families.

If the 'named person' is tasked with answering the 5 key questions it seems probable that their involvement is likely to be more than linking a child and family into requested support; there is an inferred element of decision making in relation to the current supports in place which requires some assessment / judgement. There is also an implied approach to requesting further information – and this for us is potentially problematic. When the 2014 legislation was first implemented SCRA planned to include correspondence with the named person at each stage of our decision making. The Guidance Note as currently drafted probably requires us to consider this again and we think this would be disproportionate and potentially not rights respecting or in a child's best interest.

We don't think the section on training is clear enough – and doesn't explain how a named person without the skills / experience of, for example, a Teacher, would gain that skill / experience – which makes it almost impossible for us to picture a universal standard. We are not clear how all the elements of paragraph 23 will be covered for people or how any assessment of understanding in relation to these learning requirements will be made.

We agree that planning across children's services is crucial but are really unclear about what is proposed in relation to transitions at paragraph 25 – particularly when the role of named person 'moves' at every major transition listed.

We think that further intervention should not be a focus for the named person as an individual involved with the family. If the role of the named person is integrally linked to intervention then this should be set out from the start in an open and transparent way. Interventions should be determined through interagency discussion and co-operation, in line with the process for IRD and eIRD set out in the new National Child Protection Guidance.

We are confused by the addition of the Lead Professional and think that families would also not understand the distinction between named person and lead professional, particularly when they may both be the same person. We think a link to the Lead Professional Guidance would suffice here, there is no need for the descriptor at paragraph 29.

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### Practice Guidance the role of the lead professional

#### 1. How clear and easy is the guidance to understand?

- Completely

#### 2. Does the guidance provide clarity for the role of the lead professional in implementing GIRFEC?

- Completely

#### 3. Does the guidance help provide confidence and understanding for practitioners working in the role or alongside the lead professional?

- Completely

#### 4. To what extent do you think that the guidance will help practitioners understand how to embed the United Nations Convention on the Rights of the Child, and to protect, respect and uphold children's rights within the role of the lead professional?

- A little

#### 5. Does the guidance reflect the importance of the voice of the child and family?

- Mostly

#### 6. Can you outline anything specific that would be helpful to add to this guidance?

#### 7. Are there any areas where the further development of resources or guidance would be helpful in supporting the role of the lead professional?

We are not sure that the Practice Guidance is sequential and we are not sure that this being denoted as the 'second' set of guidance is helpful. This comment applies in relation to all of the guidance notes – we would ask that a different naming convention is used in order to make the notes more accessible. As an online resource it may be that clearer indexing across all the guidance would be an approach which would make the information contained more accessible when searching for specifics. This approach would also avoid the repetition at the introduction of each piece of guidance.

The role and remit of the lead professional is clear and well laid out and links across all of the relevant areas of work succinctly. This guidance note is on the whole very successful although doesn't go as far as supporting work that may be required in order to fully implement UNCRC.

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## Practice Guidance on using the National Practice Model

### 1. How clear and easy is the guidance to understand?

- Mostly

### 2. Does the guidance provide clarity in using the National Practice Model as a key part of the GIRFEC approach?

- Somewhat

### 3. Does the guidance help provide confidence and understanding for practitioners when including children and families in discussing the areas of the National Practice Model.

- Somewhat

### 4. To what extent do you think that the guidance will help practitioners understand how to embed the United Nations Convention on the Rights of the Child, and to protect, respect and uphold children's rights while using the National Practice Model?

- Not at all

### 5. Does the guidance reflect the importance of the voice of the child and family?

- Not at all

### 6. Can you outline anything specific that would be helpful to add to this guidance?

Please add your answer below

### 7. Are there any where the further development of resources or guidance would be helpful in supporting the use of the National Practice Model?

Please add your answer below

We think the depiction of the National Practice Model is useful but wonder whether there is a way to present the model which avoids the repetition of the wellbeing wheel on each side of the My World Triangle.

The 5 key questions sit well in this document. However, we are not convinced that they need to be at the beginning and the end.

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**Paragraph 10.1** We think this could be slightly re-worded to support the right of a child and family to request supports at any stage. We are not sure that this right should be affected by the current nature of any care planning that is in place.

**Paragraph 10.2** We have some concerns about the information / record keeping of the named person in relation to well-being needs. This requirement for record keeping goes far beyond being a conduit for linking a child and family to supports and raises questions about information storage, retention and sharing – as well as questions about access and privacy and keeping information current, relevant and proportionate. This needs to be more carefully and thoroughly scoped.

**Paragraph 10.2.1** Service collaboration is a key element of the model and perhaps should be covered earlier in the guidance. Some examples of best practice as well as some examples of poor practice could be helpful.

**Section 10.3** We ask that this section is read again, through a rights based lens and with a view to the child and family engaging in both the assessment of wellbeing and any plans to address wellbeing concern. At the moment the potential for wellbeing assessment and planning to occur without the involvement of the child and family is the overriding impression of the section and we are sure this isn't the intention. A flow chart or flow charts of what could happen / when may be the most useful approach here.

**Paragraph 10.4.1** It would be a change to current practice if the Children's Reporter always received notification of a child protection IRD / initial investigation. Police Officers and Local Authorities have a duty to refer a child to the Principal Reporter under Section 60 and 61 of the Children's Hearings (Scotland) Act 2011 if certain criteria are met:

- a) that a child is in need of protection, guidance, treatment or control
- b) that it might be necessary for a compulsory supervision order to be made in relation to the child.

We have some concern that the guidance as currently drafted alters this statutory approach and could have unintended consequences in respect of the amount of information passed to the Reporter – we have spent many years working with our partners on pre-referral screening in order to ensure that the referrals coming to the Reporter are only those that are necessary and proportionate.

**Paragraph 11** Recording wellbeing needs – could set out more clearly for children and families where information is being or may be recorded in respect of them. This paragraph is currently quite wide and quite vague and would be more helpful if it was specific.

**Section 12** – permission for information sharing – we would argue that this section could be reframed – the primary position should be that a family gives permission for their information to be shared. There are exceptions for specific reasons – and these should all be listed – but a family should be clear when an exception is likely to be relied on by professionals working with them.



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**Section 13** and the link to the National Child Protection Guidance is essential – but could be more explicitly stated to be as clear as possible.

We think the My World Triangle continues to be relevant and clear. We are pleased that it remains a central tenet of the guidance.

The image quality of the picture on page 14 is poor and the content of the image is crucial. Perhaps this would be better presented in a table? With a more general image to show the linkages? It might work better if this was considered as an online document and this might alter the way in which the information is presented.

The same applies on page 15 in relation to the image and on page 16.

We are not convinced that there is a requirement in this guidance to include how gathered information should be used in assessment. For us this sits more effectively with practitioners and educators training our practitioners. There is a danger that this assessment guidance conflicts with or confuses other assessment guidance in use. If assessment guidance is needed then it should possibly be a separate document and drafted / updated regularly by professionals (in a similar vein to the practice notes linked into the National Child Protection Guidance). For us the same applies to using the resilience and vulnerability matrix. The definitions may be useful here but the detailed guidance in relation to the use of the matrix would merit a separate document.

**In Section 40** if we are to really use the body of research knowledge in this area then we need a full Literature review - the reference to the studies cited, whilst interesting, only presents a partial picture. We would ask that consideration is given to procuring a full current Literature Review of relevant research as an additional document in the GIRFEC resource pack.

### Practice Guidance on Information Sharing

#### 1. How clear and easy is the guidance to understand?

Not at all

#### 2. Does the guidance provide clarity on the practice of information sharing within GIRFEC?

Not at all

#### 3. Does the guidance provide practitioners with confidence and understanding in making decisions about sharing information?

Not at all

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4. To what extent do you think that the guidance will help practitioners understand how to embed the United Nations Convention on the Rights of the Child, and to protect, respect and uphold children's rights within the practice of information sharing?

Not at all

5. Does the guidance reflect the importance of the voice of the child and family?

Not at all

6. Can you outline anything specific that would be helpful to add to this guidance?

Please add your answer below

7. Are there any areas where the further development of resources or guidance would be helpful in supporting information sharing?

Please add your answer below

We think this area of Guidance is over long, quite repetitive and on occasion factually incorrect. At the moment we don't think it would be helpful as guidance and would benefit from some redrafting. For example, it doesn't currently consider the wider legal context for information sharing; it's only about data protection with a mention of confidentiality. Data protection is most important but it also needs to take into account FOISA, UNCRC, 2011 Act, 2014 Act, PVG Act, etc. we would be happy to be involved in any redrafting of this section if that was helpful. This guidance note feels very different to the other notes. It is a lot longer and it reads more like a paper than guidance which can be quickly accessed. It might be helpful to develop a summary of the full paper – indicating WHAT can be shared / WHEN / WHO with and highlighting PRIVACY and data ownership within the context of GIRFEC. This could be done through a flow or other chart.

**Page 1** – refers to the ICO as the source of information on information management. This is not our understanding – in Scotland the ICO's responsibilities are on data protection. If the guidance is to be about information management the it needs to refer to other legislation and authorities especially the FOISA and Scottish Information Commissioner; and Public Records (Scotland) Act and NRS.

**Page 2.** We are concerned about the statement that this guidance doesn't apply to law enforcement organisations. It most certainly should. Where it doesn't apply is in relation to law enforcement – but not their other responsibilities such as child protection. As written, it means that this guidance doesn't apply to the police.

The sentence at the top of **P3** doesn't make sense.

**Page 4.** There seems to be a misunderstanding about Privacy Notices. These are not optional – they are a requirement of the DPA 2018 and all organisations involved in GIRFEC must have them.

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We agree with **Section 3** and the rights of a child to give their view – we think that this could be more helpfully presented for practitioners using best practice examples, in a table or some case studies. As it is the Section perhaps raises more questions than it answers.

We are unclear what the takeaway message is from **Section 4** – Professional Judgement is a constant balancing act in working with children and families and is perhaps not the same balancing as is required when considering the ownership of information about people's own experiences. Section 4 raises more questions than it answers.

**Section 5** – seeking advice – the link to Caldicott Guardians is helpful but should be accompanied by links to equivalent roles in other sectors. This may be more difficult to do but we think is required.

**Section 6** – recording decision making in relation to information sharing – this is more problematic for statutory service providers who manage systems designed to provide the statutory service – not to record or report on the information sharing which exists within that service. For us this audit trail may detract from our operational focus if it is required.

**Section 7.** Is very confused. It needs to be clear and near the start of this section that where there is a lawful basis (e.g. 2011 Act requirements) consent does not apply. A lot of the information sharing that will go on in the context of GIRFEC will have such a lawful basis. Instead this section ties itself in knots around consent and loses this focus. We think as written that it will deter information sharing.

**Page 9.** In Scotland children are presumed to be able to give consent at age 12 NOT 13 as is stated (13 applies in England).

**Page 10.** It needs to state that information in chronologies must be accurate and up to date.

**Section 8** - the insertion of large sections from the Child Protection Guidance feels unnecessary and a hyperlink to the relevant sections is more likely to ensure that the link is always to the most up to date information.

The table at **Section 9** – Lawful Basis is confusing and feels like this is an area of expert knowledge – if a practitioner cannot clearly justify what they are wanting / intending to do then this is perhaps when they should be directed to support? We think this section may prevent some seeking support when it is required. We are not convinced that a glossary is required in this document and wonder if a link to the Child Protection glossary would suffice?

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## Information Sharing Charter

1. How clear and easy is the charter to understand?

- Mostly

2. Is the language used child and family friendly?

- Mostly

3. Does it provide clarity for your role and responsibilities when informing children and families how their information will or will not be shared?

- Mostly

4. To what extent do you think that the charter will help practitioners understand how to embed the United Nations Convention on the Rights of the Child, and to protect, respect and uphold children's rights while sharing the charter with children and families?

- Mostly

5. Does the charter reflect the importance of the voice of the child and family?

- Mostly

6. Is there anything missing from this charter that would be helpful for children and families to know and understand about information sharing?

Please add your answer below

There needs to be some clarity around who's charter is this? It refers to 'we' and 'us'. Is it something all organisations involved in GIRFEC are to use? If so, it needs to say this.

It also needs to be clear, and at the start, that in many circumstances organisations have legal duties to share information. Otherwise it is misleading.

**1st para.** –we suggest it should say 'privacy rights' rather than just 'rights'

**4th para.** –may be better to refer to Data Protection Act 2018 rather than GDPR.

It might also be helpful to include specific areas of statutory service provision where information will be shared – as the charter could confuse this for some families.

Otherwise we think this charter is a good idea and when finalised we would seek to use it in relation to our work in the Children's Hearing.

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