

[2016] No.

CHILDREN AND YOUNG PERSONS

The Child's Plan (Scotland) Order [2016]

Made - - - - ***

Laid before the Scottish Parliament ***

Coming into force - - ***

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 33(6)(b)(iii), 34(4), 35(6)(b)(iii), 35(8), 35(9), 39(2)(b)(iii) 39(6) and 99(1)(a) of the Children and Young People (Scotland) Act 2014(a) and all other powers enabling them to do so.

PART 1

GENERAL

Citation and commencement

1. This Order may be cited as the Child's Plan (Scotland) Order [2016] and comes into force on [***].

Interpretation

2. In this Order—

“the 1995 Act” means the Children (Scotland) Act 1995(b);

“the 2003 Regulations” means the Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003(c);

“the 2004 Act” means the Education (Additional Support for Learning) (Scotland) Act 2004(d);

“the 2005 Regulations” means the Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Amendment Regulations 2005(e);

“the 2009 Regulations” means the Looked after Children (Scotland) Regulations 2009(f);

“the 2014 Act” means the Children and Young People (Scotland) Act 2014;

“child's named person” means the individual who is the child's named person by virtue of Part 4 of the 2014 Act;

(a) 2014 asp 8.

(b) 1995 c.36.

(c) SSI 2003/608. The 2003 Regulations were amended by [to be inserted]

(d) 2004 asp 4.

(e) SSI 2005/518. The 2005 Regulations were amended by [to be inserted]

(f) SSI 2009/210. The 2009 Regulations were amended by [to be inserted]

“co-ordinated support plan” has the meaning given to it in section 29(1) of the 2004 Act;
“looked after” has the meaning given to it in section 17(6) of the 1995 Act and references to a
“looked after child” are to be construed accordingly; and
“options for self-directed support” is to be construed in accordance with section 4(1) of the
Social Care (Self-directed Support) (Scotland) Act 2013(a)

PART 2

REQUIREMENT FOR A CHILD’S PLAN

Persons to be consulted about the requirement for a Child’s Plan

3.—(1) This article applies where the responsible authority in relation to a child is deciding, in terms of section 33 of the 2014 Act, whether the child requires a child’s plan.

(2) In addition to complying with section 33(6) of the 2014 Act, the responsible authority must, in deciding whether a child’s plan is required—

- (a) where the child is looked after or is about to be looked after, consult with the persons specified in regulation 4(2) of the 2009 Regulations;
- (b) where the child has or requires a co-ordinated support plan, comply with section 11(2) of the 2004 Act.

PART 3

PREPARATION AND CONTENT OF A CHILD’S PLAN

Preparation of a Child’s Plan

4.—(1) This article applies where the responsible authority in relation to a child has decided, in terms of section 33 of the 2014 Act, that the child requires a child’s plan.

(2) The responsible authority or, as the case may be, the relevant authority, must prepare a plan to be known as the “child’s plan” in accordance with section 35 of the 2014 Act and articles 5 and 6 of this Order.

Information to be included in a Child’s Plan

5.—(1) In addition to the information required by section 34 of the Act, a child’s plan must include the information specified in paragraph (2).

(2) The information referred to in paragraph (1) is—

- (a) information regarding the matters specified in Schedule 1, insofar as applicable to the child;
- (b) where the child is looked after or is about to be looked after, the information specified in regulation 5(3) of the 2009 Regulations;
- (c) where the child has or requires a co-ordinated support plan, information concerning the matters specified in section 9(2) of the 2004 Act and in regulation 3 of the 2005 Regulations;
- (d) where the 2003 Regulations apply to the child, the information specified in Schedule 2 to those Regulations.

(a) 2013 asp 1.

Persons to be consulted about the preparation of a Child's Plan

6.—(1) In addition to complying with section 35(6) of the 2014 Act, the authority preparing a child's plan must, in preparing the plan—

- (a) where the child is looked after or is about to be looked after, consult with the persons specified in regulation 5(2) of the 2009 Regulations;
- (b) where the child has or requires a co-ordinated support plan, consult with the persons specified in section 11(3) of the 2004 Act;
- (c) where the 2003 Regulations apply to the child, comply with regulation 10 of those Regulations.

Provision of copies of a Child's Plan

7.—(1) After a child's plan has been prepared, the authority which prepared it must provide a copy of the plan to—

- (a) the child where, taking account of the child's age and maturity, the responsible authority consider that the child is capable of understanding the purpose and effect of the child's plan;
- (b) the child's parents;
- (c) the child's named person;
- (d) where the child is looked after or is about to be looked after, the persons specified in regulation 5(4) of the 2009 Regulations;
- (e) where the child has a co-ordinated support plan, the persons specified in section 11(5)(a) of the 2004 Act; and
- (f) where the 2003 Regulations apply to the child, the persons referred to in regulation 10(7) of those Regulations, but only where the written consent as mentioned in that regulation has first been obtained.

(2) The requirement under paragraph (1) does not apply where the authority considers that providing a copy of the plan to any of the persons specified in that paragraph would—

- (a) place the child's wellbeing at risk;
- (b) place any person referred to in the plan at risk of harm; or
- (c) be incompatible with any legal obligation to which the authority is subject.

(3) Where, the authority is satisfied that the risk in paragraph (2) can be avoided by giving only a particular part of the plan to the persons specified in paragraph (1), they must provide that part of the plan to those persons.

(4) The requirement under paragraph (1)(d) does not apply where the authority is of the view that, taking into account the local authority's duties under section 17 of the 1995 Act and the terms of any permanence order, an exclusion order or any order or warrant made by a children's hearing or sheriff under the 1995 Act or the Children's Hearings (Scotland) Act 2011, it would not be in the child's interest for a copy of the child's plan to be given to that person.

Form of Child's Plan where Co-ordinated Support Plan required

8. Where a child has or requires a co-ordinated support plan, any part of the child's plan prepared in respect of that child which contains the information specified in article 5(c) above must be in the form specified in the Schedule to the 2005 Regulations, or in a form substantially to the same effect.

PART 3

MANAGEMENT OF A CHILD'S PLAN

Review of a Child's Plan

9. A child's plan is to be reviewed in accordance with articles 10 and 11.

10.—(1) Subject to paragraphs (3) to (10) of this article, the managing authority of a child's plan is to arrange a review of the plan—

- (a) within a period of 6 weeks, beginning with the date on which the following occurs—
 - (i) the plan is prepared under section 35 of the 2014 Act; or
 - (ii) management of the plan is transferred under section 39(5)(b) of the 2014 Act; and
- (b) thereafter, at intervals which have been agreed between the managing authority, the child and the child's parents.

(2) Where agreement in terms of article 10(1)(b) cannot be reached, the managing authority is to arrange a review of the plan to take place at least once within each successive period of 12 months, beginning with the date on which the plan was last reviewed.

(3) Despite the terms of paragraphs (1) and (2), the managing authority of a child's plan is to arrange a review of a child's plan if it considers, having regard to any the matters specified in section 39(1) of the 2014 Act, that the plan may require to be amended before the date on which it would otherwise be reviewed by virtue of this article.

(4) The duty in paragraph (3) is to be exercised as soon as reasonably practicable after the managing authority becomes aware of the matter which may require the plan to be amended.

(5) The following persons may at any time request that the managing authority of the plan arrange a review of the plan—

- (a) the child; or
- (b) the child's parents.

(6) Where a review is requested in accordance with paragraph (5), the managing authority is to consider, having regard to any of the matters specified in section 39(1) of the 2014 Act, whether the plan may require to be amended before the date on which it would otherwise be reviewed by virtue of this article.

(7) Where the managing authority, on considering the matters specified in paragraph (6), is of the view that the plan may require to be amended, it is to arrange a review in accordance with paragraph (4).

(8) Where the child is a looked after child, the child's plan is to be reviewed in accordance with regulation 44 or, as the case may be, regulation 45 of the 2009 Regulations.

(9) Where the child has a co-ordinated support plan, the child's plan is to be reviewed in accordance with section[s 10 and] 11 of the 2004 Act and regulations 5 and 5A of the 2005 Regulations.

(10) Where the 2003 Regulations apply to the child, the child's plan is to be reviewed in accordance with regulation 12 of those Regulations.

Persons who are to be consulted when reviewing a Child's Plan

11.—(1) In addition to complying with section 39(2)(b) of the 2014 Act, the managing authority of a child's plan must, in reviewing the plan—

- (a) where the child is looked after, consult with the persons specified in regulation 44(3) or, as the case may be, regulation 45(5) of the 2009 Regulations;
- (b) where the child has or requires a co-ordinated support plan, consult with the persons specified in section 11(3) of the 2004 Act;

- (c) where the 2003 Regulations apply to the child, comply with regulation 12 of those Regulations.

Transfer of Management of a Child's Plan

12.—(1) Subject to paragraph (3) where, after a child's plan has been prepared, the managing authority considers, having regard to any of the matters specified in paragraph (2), that it would be more appropriate for another relevant authority to manage the plan, then management of the child's plan is to transfer to that other relevant authority.

(2) The matters referred to in paragraph (1) are—

- (a) the child's wellbeing needs;
- (b) any targeted interventions which are being or which require to be provided to meet the child's wellbeing needs; and
- (c) any relevant authority which is providing or, as the case may be, is likely to be able to provide, a targeted intervention as mentioned in sub-paragraph (b).

(3) The transfer of management under paragraph (1) may take place only where the relevant authority to whom management of the plan is to transfer, agrees.

(4) A relevant authority which declines to give its agreement as mentioned in paragraph (3) must provide a statement of its reasons

(5) [Where the child has or requires a co-ordinated support plan, the child's plan is to be transferred in accordance with regulations 9 and 9A of the 2005 Regulations.]

Requirement on Relevant Authorities to produce guidance in relation to Child's Plans

13.— (1) Relevant authorities must produce guidance covering the matters detailed in paragraph (2).

(2) The matters referred to in paragraph (1) are—

- (a) how the delivery of targeted interventions will be agreed between relevant authorities;
- (b) how transfer of management of a child's plan will be agreed between relevant authorities;
- (c) the involvement of children and their families in the preparation of and management of a child's plan.

St Andrew's House,
Edinburgh
[Date]

Name
Authorised to sign by the Scottish Ministers

SCHEDULE 1

[Article 5]

PART 1

Child's Plan – content

Demographic section

Date of child's plan

Date of any previous child's plan

Child's full name

Child's Date of Birth

Unique reference numbers such as

- CHI 1999 No.

- SW Number

- Education number

Home address of child

Whether any information in the demographic section should not be disclosed further, and any details of this.

Whether the child is looked after or about to become looked after

Whether the child has or requires a co-ordinated support plan

Whether the child is on the child protection register

Whether there are any orders of a court or children's hearing in place in respect of the child, including any which regulate the child's place of residence and/or the child's contact with other persons.

Relationship section

Details of child's parents and/or carers: name; date of birth; address (if different to child); who holds parental rights and responsibilities in respect of the child

Details of other significant children/adults in child's life: name; relationship to child

The child's named person and their contact details

The lead professional and their contact details

Assessment of wellbeing section

Details of wellbeing indicator(s) identified

Summary of assessment(s) carried out in relation to wellbeing

Chronology of significant events in the child's life

Views of the child

Views of the child's parents/carers

Views of other persons who contributed to assessment.

Section for children who require a Coordinated Support Plan

The information required by article 5(c) of this Order.

Action Plan section

In relation to each of the relevant wellbeing indicators: —

Why the wellbeing indicator is relevant to the child

Desired outcome, including indicators to show when that outcome will be achieved

Actions to be taken, including targeted intervention(s) to be provided

Person(s) responsible for taking actions and providing targeted intervention(s)

Timescales for taking action

Child's view of the plan

Parental/carer's view of the plan

Views of other persons on the plan

Note of any disagreements about the plan

Options for self-directed support that have been offered

Date of next review of the plan

Plan closure date and reason for closure

Compulsory Measures of Supervision section

What compulsory measures of supervision are recommended for the child?

Why would the recommended compulsory measures of supervision be appropriate?

Details of any assessment made under section 49 of the 2014 Act

Details of any permanence decision in respect of the child: date; decision; reasons for permanence decision and any disagreements.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes further provision in respect of child's plans, in addition to what is specified in Part 5 of the Children and Young People (Scotland) Act 2014 ("the Act"). In particular, the order makes further provision as to the requirement for a child's plan; and as to the preparation, content and management of a child's plan.

Article 1 provides that the Order comes into force on [***].

Article 2 gives meaning to certain words and expressions used in the Order.

Article 3 makes provision about the persons who require to be consulted about the need for a child's plan in certain circumstances.

Articles 4, 5 and 6 make provision about the preparation of child's plans, including: what information should be included in a child's plan; and persons who should be consulted about the preparation of a child's plan.

Article 7 specifies the circumstances in which copies of a child's plan should, and should not, be provided to specified persons.

Article 8 provides that any child's plan for a child who requires a co-ordinated support plan should be in a specified format.

Articles 9, 10 and 11 make provision about the review of child's plans.

Article 12 specifies when management of a child's plan is to transfer from one relevant authority to another.

Article 13 requires relevant authorities to produce guidance about certain matters concerning child's plans.