

Guidance on Referral to the Reporter - Information for Partners

Changing for children and young people



Introduction

1. This guidance is aimed at giving practical advice to any professional who is considering making a referral to the Reporter. It does not aim to give a complete description of the Children's Hearings System – other relevant information can be found at the website of the Scottish Children's Reporter Administration – www.scra.gov.uk
2. Any person may refer a child to the Reporter. The Getting It Right for Every Child (GIRFEC) approach being implemented throughout Scotland and reinforced by new duties in the Children and Young People (Scotland) Act 2014 will ensure
 - That professionals, whether a Named Person, Lead Professional or single agency practitioner, assess the wellbeing of children and young people having considered the eight indicators set by the National Practice Model often referred to as SHANARRI as shown <http://www.gov.scot/Topics/People/Young-People/gettingitright/national-practice-model>
 - That professionals work together to meet any identified wellbeing needs at the earliest possible stage
 - That help and support is appropriate, proportionate and timely.

Where voluntary engagement is not sufficiently addressing a child's needs, or is thought unlikely to be able to do so, a referral to the Reporter should be considered. This document is intended to assist anyone who is considering making a referral to the Reporter.

Criteria for referral to the Reporter

3. The statutory criteria for referral to the Reporter are:
 - (a) the child is in need of protection, guidance, treatment or control; and
 - (b) it might be necessary for a Compulsory Supervision Order to be made in relation to the child.

The Local Authority and the Police **must** refer a child when the criteria apply. Any other person **may** do so.

Application of criteria

4. Before making a referral to the Reporter, the referrer must have considered the referral criteria and believe that they apply. This should involve consideration of whether voluntary engagement will be likely to meet the child's needs and, if not, whether a Compulsory Supervision Order might be a proportionate response. In many situations the provision of support will have been tried before a referral is made, but it is not necessary that this is the case.
5. As GIRFEC and Early Effective Intervention (EEI) develop, the decision to refer to the Reporter will often be made in a multi-agency forum. In particular, the development of the roles of the Named Person and Lead Professional will provide an important link

to who may be consulted prior to referral, but such consultation must not delay a referral when it is clear that the referral criteria have been met. In some circumstances the referral will be in response to a child protection situation where the Lead Professional has taken specific action to protect the child or young person. Information held on the child's circumstances by a number of agencies/professionals can be used effectively here in order to inform a decision to refer to the Reporter. This information can be collated in a way which gives a clear picture of the needs, concerns and risks which may require to be addressed. However every agency and every individual profession working with a child, this includes practitioners with direct responsibility for children and those with indirect responsibilities (e.g. those delivering services to parents), have a responsibility to consider whether the criteria apply and whether to make a referral to the Reporter.

6. A person may discuss a child's situation with the Reporter in order to assist with the decision whether to refer the child which may help clarify the considerations in making a referral. However, the decision to refer or not lies with the referrer; the Reporter can neither prevent nor require a referral but may help clarify the considerations in making a referral and the information that may assist with any decision. The statutory duty to consider the eight wellbeing indicators (SHANARRI) and the five key questions from the National Practice Model in all assessments will support in deciding whether a referral should be made.
7. In exceptional circumstances the Reporter may treat information received through any route as a referral, even where no agency has made a decision to refer.
8. No referral can be made for a child not yet born although agencies through pre-birth case conferences, may plan to ensure the child's immediate safety at birth where there is concern.
9. More specific guidance exists in relation to the reporting of alleged offences committed by a child, in particular in relation to presumptions about referral in certain situations. The Reporter deals with referrals based on offending by a child in the same way as any other referral.

Factors which are not relevant for making a referral

10. The following factors are not relevant to the decision to make a referral:
 - a. The age of the child, provided the child is under the age of 16 (or, if over 16, subject to a referral already under consideration, Children's Hearing proceedings or a Compulsory Supervision Order).
 - b. A referral to the Reporter should not be made for the purpose of requiring an agency to provide a service for a child. The needs of the child and the application of the referral criteria should be at the heart of the planning.
 - c. Decision-making criteria in child protection work often refer to actual or likely significant harm. This is not a test which has to be applied in considering whether to refer a child to the Reporter.

Factors in considering making a referral

11. Any potential referrer should give consideration to what outcome they are seeking for a child based on the assessment of wellbeing and the degree to which compulsory measures might assist in the achieving of that outcome. Where a child's plan has been developed, through SHANARRI assessment, actions which may require compulsory intervention should be identified.

In every assessment all practitioners should ask the five key questions from the National Practice Model:

1. What is getting in the way of this child or young person's wellbeing?
2. Do I have all the information I need to help this child or young person?
3. What can I do now to help this child or young person?
4. What can my agency do to help this child or young person?
5. What additional help – if any – may be needed from others?

These questions should help to determine whether compulsory measures might be necessary.

While this does not intend to be an exhaustive list, further questions to consider are:

- a. How significant are the concerns about the child's welfare or behaviour, taking account of health, education and development?
- b. What supports by agencies or the wider family are available to the child/family, how long have they existed and what evidence of those supports effecting any change and improvement in the child's circumstances?
- c. What degree of co-operation is given by child/family and is there any sign of a willingness and ability to change?
- d. Where a relevant person has a drug/alcohol problem, does he/she acknowledge the causes of concern e.g. recognition of a drug/alcohol problem and its potential impact on the child's wellbeing and development? Are there appropriate treatments and care interventions available which are likely to be used?
- e. If the concerns relate to a specific incident of conduct either by or towards a child, how significant is that incident in relation to the child's needs for protection, guidance, treatment and control?
- f. Have there been previous referrals in respect of the child or other siblings in the family which are relevant to the current concerns or which are sufficiently serious and recent to justify a referral?

- g. Is there any previous conduct, criminal or otherwise, of any relevant person which is relevant to the current concerns or sufficiently serious and recent to justify a referral?
- h. If the concerns relate to a pattern of behaviour of a relevant person, in particular in cases where parental neglect is alleged, how long has that pattern been going on and has there been any evidence of change, or likelihood of such happening?
- i. Are there concerns related to the child's wellbeing which are not being met at present and which could be better addressed through the introduction of compulsory measures?
- j. Are there any referrals already being considered for the child by the Reporter or is the child already subject to a Compulsory Supervision Order?

Consequences of referral

- 12. If a referral is made, the Reporter must determine whether he/she considers that:
 - a. there is sufficient evidence of a ground; and
 - b. if so, whether a Compulsory Supervision Order is necessary
- 13. The Reporter may make any further investigations relating to the child that the Reporter considers necessary. This includes investigation into the evidence relating to any ground and investigation into the need for a Compulsory Supervision Order.
- 14. If the Reporter decides that both a ground applies and a Compulsory Supervision Order is necessary, the Reporter is required to arrange a Children's Hearing. If the Reporter decides that either criterion does not apply, the Reporter will not arrange a Hearing, but may refer the child to the relevant Local Authority for advice, guidance and assistance
- 15. If the Reporter arranges a Hearing, he/she will draft the 'Statement of Grounds' setting out which ground, or grounds, the Reporter believes applies and the supporting facts. The Hearing may only proceed to consider whether to make a Compulsory Supervision Order if the child, and relevant persons present at the Hearing, accept a ground, or a ground is found established by the Sheriff.
- 16. In deciding whether to make a Compulsory Supervision Order the Hearing will have as its paramount consideration the need to safeguard and promote the welfare of the child throughout childhood. The Hearing will not make any order, or include any measure in an order, unless it considers doing so is better for child than not doing so. The Hearing will have regard to the views of the child.

Information to provide in a referral

- 17. A referral from an agency or professional is to be made in writing.
- 18. A key component of GIRFEC is that children should get the help they need when they need it. The more, relevant information that can be provided in the referral to the

Reporter, the better and more quickly the Reporter will be able to make a decision about the referral. Para 21 exemplifies the information that a Reporter will be looking for in enabling him/her to reach a decision. That may not always be available to the referrer and should not inhibit or delay a referral, however assessment of wellbeing or the child's plan should be submitted where possible.

19. If the Local Authority considers it likely that the criteria for referral apply, it must make all necessary inquiries into the child's circumstances. If the Local Authority then makes a referral it must give the Reporter such information as is relevant and proportionate about the child. The same applies to the Police when they refer.
20. Agencies should be aware that in assessing the need for a Compulsory Supervision Order, the Reporter will have regard to the following factors:
 - The extent of concern regarding child's welfare. The My World Triangle and the resilience triangle, as part of the GIRFEC National Practice Model provide tools to consider and describe in a structured way the strengths and weaknesses of the child's development, parenting and family/environmental factors.
 - The history of co-operation with previous intervention by agencies and the impact of any previous intervention.
 - The current motivation to change or willingness to co-operate with support.
21. Where it is available the following information should be provided, when making a referral and where possible most of this information should be provided in the form of a Child's Plan:
 - The reasons for any referral.
 - Information about the child and family background, including a chronology of significant events derived from agencies' records and contributions from the family.
 - Accurate information about who are 'relevant persons' in relation to the child, other persons who may have significant involvement in the upbringing of the child and persons with a civil right of contact.
 - A thorough and integrated multi-agency assessment of risk and need, including relevant evidence in support of any section 67 ground.
 - A clear, realistic action plan for managing identified risks and meeting identified needs, agreed across all relevant agencies.
 - A clear, realistic set of goals and outcomes, with clear, realistic actions to achieve them.
 - A clear assessment of the ability and willingness of the child and 'relevant persons' to engage with services to address identified needs.
 - The child's and 'relevant persons' views of the child's circumstances, plan and progress.

- A clear, evidenced recommendation as to any measures which are assessed as necessary for inclusion in a Compulsory Supervision Order or interim order.

By maximising the sufficiency of information at the point of referral to the Reporter, decisions may be able to be taken without the need for further investigation and delay.

Informing the family of a referral

22. There is no requirement to obtain the consent of the child/family before making a referral to the Reporter. It is good practice to inform the child/family but there may be occasions where that is not appropriate, in particular where it is likely to endanger the child or another person or lead to the family moving away. Unless the Reporter is told otherwise, it is likely letters will be sent to the relevant persons and where appropriate the child.

Where a family is not informed, the Reporter should be told as it will have implications for the Reporter's communications.

Children already subject to a Compulsory Supervision Order

23. Where a child is subject to a Compulsory Supervision Order, changing circumstances or needs may be taken into consideration by a Children's Hearing reviewing the order. However, a further referral to the Reporter may be made by any agency or person at any time. A referral is likely to be appropriate where the child's welfare indicates that a new specific Statement of Grounds should be considered by the Hearing or that the Compulsory Supervision Order should be varied because of the information in the referral.
24. Factors which the Reporter will consider in determining a referral include:
 - The nature of the new referral, including gravity of the incident or concerns and extent of any similarity to the accepted/established Statement of Grounds.
 - The response and attitude of carers and child to the incident or concerns in the referral.
 - Whether there is a measure in the current order which addresses the new referral.
 - The co-operation with, progress and impact of the Child's Plan
 - The length of time since the last Children's Hearing.



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