

# 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 Reporters Administration –[www.scra.gov.uk](http://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 work together to meet the needs of children and young people at the earliest possible stage and that help and support should be 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, 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 who may be consulted prior to referral. 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. Where possible, multiple referrals from different agencies relating to the same concerns should be avoided. However, every agency and every individual professional working with a child has a responsibility to consider whether the referral 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.
- 7 In exceptional circumstances the Reporter may treat information received through any route as a referral in the absence of a referral from an agency or person.
8. No referral can be made for a child not yet born.
- 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 an open referral, 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.
  - 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 and the degree to which compulsory measures might assist in the achieving of that outcome. Where a child's plan has been developed, actions which may require compulsory intervention should be identified. While this does not pretend to be an exclusive list, among the questions to be asked 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?

## 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 a referral .
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 any information it has about the child. Similarly, where the police make a referral, all relevant information must be given to the Reporter.
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* , as part of the GIRFEC National Practice Model provides a tool 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

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

22. 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.
23. 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 current care plan.
  - The length of time since the last children's hearing.





**Scottish Children's Reporter Administration  
Ochil House  
Springkerse Business Park  
Stirling  
FK7 7XE**

**Tel: 0300 200 1555**

**[communications@scra.gsi.gov.uk](mailto:communications@scra.gsi.gov.uk)**

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**[www.scra.gov.uk](http://www.scra.gov.uk)**