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PARENTS' GUIDE TO THE NAMED PERSON SCHEME

The Supreme Court stripped key powers from the Scottish Government's Named Person scheme, forcing them to bring in much more limited laws which won't be in place until 2018. Here is a handy guide to how things stand in the meantime.



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1 YOU'RE THE BOSS

This is the golden rule. You're in charge, not the Named Person. Don't be intimidated, and don't be bossed around.

In the judgment in July 2016, the Supreme Court warned of the danger that parents might be given the impression that they have to accept a Named Person's advice or services (para. 95). The judges were concerned about this because it's a false impression, and because families are so important.

The Supreme Court couldn't have been clearer about the importance of family freedom:

“There is an inextricable link between the protection of the family and the protection of fundamental freedoms in liberal democracies...

Different upbringings produce different people. The first thing that a totalitarian regime tries to do is to get at the children, to distance them from the subversive, varied influences of their families, and indoctrinate them in their rulers' view of the world.

Within limits, families must be left to bring up their children in their own way.”

UK Supreme Court judgment on the Named Person, para. 73

And that was when the court was considering a statutory scheme. While there's no legislation in force, any Named Persons are operating on a non-statutory basis. Parents are in an even stronger position. So, when you're given

advice or offered a service by a Named Person, you don't have to accept it. You're the boss.

If a Named Person tries to override your wishes, or uses the fact you're not doing what they say to suggest you are a risk to your child, they may well be breaching Article 8 of the European Convention on Human Rights (the right to a private and family life). The Supreme Court was very clear that you shouldn't be treated as a greater risk just because you've chosen not to accept advice from a Named Person. Take legal advice if you feel you're being pushed around.



2 YOU CAN 'OPT OUT' IF YOU WANT...

Until Part 4 of the Children and Young People (Scotland) Act is brought into force there's no legal basis for Named Persons. So, there's no obligation at all on you to have one.

Even when it does come into force, the Supreme Court was very clear about the primacy of parents and the "voluntary nature" of the advice, information, support and help "offered" by the Named Person. This is, in effect, an opt-out from the Named Person scheme.

So, the Deputy First Minister said in August



2016: "parents and families are not obliged to participate with the named person policy". One senior local authority figure has said that if parents inform their "head teacher and/or health visitor that they do not wish to have a named person for their children, they will not have a named person".

If you do not want to have anything to do with the Named Person scheme, let your child's head teacher/health visitor know, and they should follow your wishes. You can ask for confirmation in writing that nobody will be acting as a Named Person for your child.

3 ...OR YOU CAN USE IT ON YOUR OWN TERMS

If you choose to accept the involvement of a Named Person, there's no need to be worried or defensive when you're dealing with them, because you're still in the driving seat.

If you like the advice you're given, take it on board. If you don't

want to accept the advice, say "thanks – but no thanks".

You're operating from a position of strength, so you can be confident in doing what you think is best.

Remember, the Government claims the

Named Person scheme is designed to make your life easier. Named Persons are supposed to be a resource for you to use. So, if you need help accessing services, ask. Make the Named Person service work for you, rather than being about you.

You also have a right to data privacy. Personal information on you or your child cannot be shared between officials without your consent except in line with the Data Protection Act (DPA).

The Supreme Court made clear that the DPA applies in full to the sharing of personal information by a Named Person. The Government

has now conceded that sharing can only happen without your consent in “exceptional circumstances, such as where the risk of harm is present”.

Your consent must be informed consent. So if your child’s Named Person asks for information about you or your child, ask what it’s for and who it’ll be shared with.

Then you can decide whether or not to give your consent. You could specify that you do not consent to any information being shared about you or your children.

Don’t sign any forms that give blanket consent for sharing your personal information. You are entitled to be asked for your consent on each and every occasion.

4 MAKE SURE YOUR PRIVACY IS BEING RESPECTED

Whether or not you use the Named Person service, if you have any doubts about whether your information is being shared lawfully don’t stay in the dark – make a Subject Access Request.

This is the legal right to know what personal information an organisation holds on you and your children. It’s a way of holding your local authority and health board – who

provide the Named Person service – to account.

Parents tell us stories about attending meetings with teachers, health visitors and others, only to find everyone in the room has been shown confidential medical information on them and their children. Others have discovered dossiers containing inaccurate tittle-tattle about their relationships,

their personal spending and other issues which are no business of the state.

To make a Subject Access Request go to:

**NO2NP.ORG/
SUBJECT-ACCESS-
REQUEST**

There are also powers under the Data Protection Act to get unlawful records erased in certain circumstances.

(Remember that, under child protection law, private information can and should lawfully be shared if there is a risk of significant harm to a child.)

