

# The 'Named Person' debate: The case against

**Maggie Mellon**

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## Corresponding author:

Maggie Mellon, Independent consultant on social work practice and public policy.

## My four main reasons for opposing the Named Person

- Firstly, there is no evidence to support introducing Named Persons in legislation.
- Secondly, the legislation does not say what it claims that it does.
- Thirdly, this is neither early intervention nor prevention, but it is 'net widening'. The threshold for intervening in children and families' lives has been lowered significantly from 'significant harm' to any concern about wellbeing without justification. The presumption in favour of sharing intimate information on this lower threshold is in itself a big risk to child and family welfare.
- Fourthly, the state makes a lousy parent, and it needs to get its own house in order for the children who are looked after and those who are known to be in need.

My first point – where is the evidence? There is no local, national or international research evidence to support the imposition of Named Persons for all children. The Getting It Right For Every Child pilot in Highland Council did not provide any robust research evidence for 'named persons', or indeed much in the way of actual research evidence for GIRFEC. The 'evidence' quoted is often anecdotal and much of it based on the professionals' opinions. Claims of 'success' and of parental satisfaction are based on people in the mainstream services doing what they are supposed to do anyway. In fact when the resources for this whole project are questioned, the answer is exactly that – Named Person duties are just part of existing responsibilities, so there is no extra cost. Why then do we need this legislation?

Already hundreds of extra health visitors are being recruited. You might say 'hooray' but will any new posts be spending more time just servicing the system? Social workers already spend 70-80% of their time inputting data to systems. Would the money not be better spent on free school dinners and breakfasts, music and art, chess and drama or homework clubs, opening schools in the evening and weekends, and other population wide measures? Who has looked at the cost benefits? No-one. Just one sign of the lack of proper thought that has gone into the legislation is the confusion and delay in getting out guidance on how it will work, about resources and responsibilities, and about complaint procedures. As

this was being written (in October 2015), with the provision due to come into force early next year, the guidance had not been issued. The draft guidance issued for consultation was widely criticised for lack of clarity and for raising more questions than it answered.

After years of being told that we need evidence based interventions, suddenly what has been merely at best a sensible practice idea (with an unfortunately Orwellian name) is made national law. The provision was opposed by the Law Society of Scotland, by most local authorities, by the Scottish Parent Teacher Council, by the Scottish Child Law Centre and Clan Law, by the Scottish Association of Social Workers, and many, many others. There were varied grounds for opposition to or simply questioning the Named Person approach, including workability and resourcing as well as issues of principle. But that was not enough to alert the Scottish Parliament that there was a lack of evidence and a lack of support from some key constituencies. Members of the Scottish Parliament (MSPs) of all parties chose to rely on the advice and support of two or three children's charities. Now Police Scotland and the Educational Institute of Scotland (EIS) teachers' union are expressing serious doubts about workability.

My second point is that the legislation does not say what its defenders claim. For those Scottish readers who have welcomed what they think is being proposed, but not read the legislation, the exact wording might be a surprise, as all the reasons that have been given for welcoming and supporting the provision are not represented.

Extract from the Children and Young People (Scotland) Act (2014)

*(S19 (5)) Named Persons*

*The functions (of the named person) are –*

*(...), doing such of the following **where the named person considers it to be appropriate** in order to promote, support or safeguard the wellbeing of the child or young person—*

*(i) advising, informing or supporting the child or young person, or a parent of the child or young person,*

*(ii) helping the child or young person, or a parent of the child or young person, to access a service or support, or*

*(iii) discussing, or raising, a matter about the child or young person with a service provider or relevant authority, and*

*(b) such other functions as are specified by this Act or any other enactment as being functions of a named person in relation to a child or young person*

There is *no* mention of the Named Person having a duty to act on the request of, or to consult with, parents, families, children or young people, or even to take their views and wishes into account. There is no mention of confidentiality, partnership, or of rights and entitlements. There is not one single mention of families and very few of parents in the whole Act.

The government justifies the measure by explaining that parents asked for a single point of contact within the statutory services, and that Named Persons are particularly welcomed by parents of children with special needs. Parents of children with special needs have been asking for years for a simpler way for them to have their children's needs met. They don't want to have multiple assessments and repeat their story to endless professionals, then wait as the services fight out who should pay. If that was the problem why then does the legislation not tackle it head on? I suggest that legislation to meet parents' and children's needs would read something like the following:

Parents and carers of children with special needs , or who believe that their children have unrecognised special needs, will have the right to have appointed a single person from within the statutory services. Persons carrying out this role will be primarily responsible to parents and children to ensure that children's needs are assessed, and that these assessed needs are met by the responsible agencies.

But the actual legislation is quite contrary to this. In fact, parents have no right to be consulted or to have their views taken into account and neither do the children. The Children (Scotland) Act 1995 refers to 'partnership' with parents. This was already a step towards 'co-parenting' by the state, but consulting with parents and children was required. Now it is all 'as they see fit'.

Now we come to my third point. This is not 'prevention' as is claimed, but it is in fact 'net-widening'. The legislation lowers the threshold for compulsory intervention and information sharing well below the current test of 'significant harm' to one of any concern about a child's wellbeing, for which there is no legal definition. It is a dangerous breach of the right to family and private life but in itself poses a threat to children's welfare.

I know that there has been impatience with the campaign against the Named Person along the lines of 'Oh here we go, that right wing rubbish about families. We know that families are where *most* child abuse goes on and we can't tell which families are dangerous, so we need to make this universal.'

The idea that 'services' and not parents and families guarantee children's wellbeing and that services must monitor parents, and intervene 'as they see fit' has become almost unquestioningly accepted.

That there is no child abuse in the vast majority of families goes unremarked. Why has it become difficult to acknowledge that families are the bedrock of children's wellbeing, and that family welfare is essential to children's welfare? I mean families in all their shapes and sizes, with their different cultures and strengths and needs. Prevention means not policing families but taking practical measures to sustain and promote family life. That would ensure that Scotland is the best place for children to grow up. If we do not

understand that, then we do not understand children, and cannot even begin to meet their needs.

The government justifies information sharing on child protection grounds, claiming that it is necessary to avoid future child deaths. This almost inevitably means that Named Persons and others will increasingly share information in order to avoid any risk to *themselves*. This means that intimate details of children and their families' lives will be open to inspection and comment by everyone from the police to the teacher, the health visitor and the nursery worker if any Named Person requests that it is.

There is no penalty for unnecessary information sharing or for parents' and children's subsequent loss of trust in professionals. However there is a huge perceived risk to the individual professional not to do so. In fact, failure to share information has never been highlighted as the cause of any child's death. Inquiry reports instead usually recognise that it is failure to understand or to act on information that often lies behind tragedy. Every single child who has been the subject of an inquiry report in Scotland has been known to the system, and lots of information has been shared about them. Mikaeel Kular<sup>1</sup> was known to services in Fife Council and Edinburgh City Council, he had a Named Person, and he had been in care. And yet he died.

Flooding the system with more information is not going to cut risk, it is going to increase it, and probably induce a false sense of security, that risks are being 'managed'. Where is the recognition of the huge risks in sharing information across a wide range of people? Of misuse, of carelessness, of dangerous people being able to identify the most vulnerable children, of data-mining by private companies for their own ends, and of children and parents simply feeling it is unsafe to confide in anyone?

So this is not a universal provision and prevention in the sense that we understand that, it is net widening for investigation, which is quite another thing.

My fourth point is that the state makes a really lousy parent, and it needs to get its own house in order before looking for wider territory to make mistakes in. Those responsible for public services need to *get it right* for the children who are already looked after and accommodated. These children are being let down every day by poor and incoherent planning, multiple placements, separation from siblings and wider families, and finally by being turfed out of the door at age 16/17 to sink or swim. Children who have been processed through children's hearings and brought into the looked after system are *more* not less likely to enjoy wellbeing. They also have a much higher chance of losing their own children to the care system.

Should government effort not be going into getting it right for the children who are the responsibility of care services? Is it just so difficult to keep siblings together, to stop children from going off the rails as teenagers, to prevent them being abused or neglected in institutions and foster care? Is it so hard to make sure that they leave school with

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<sup>1</sup> The three year-old was reported missing from his bed in Kirkcaldy, Fife by his mother on 15 January 2014. His body was found in woodland days later. The mother, Rosdeep Adekoya, was convicted of culpable homicide at the High Court in Edinburgh in July 2014.

qualifications and a future? 'Unknown economic status' is the fate of most of the children leaving care of local authorities. Yes it is very difficult, so difficult that it seems to have defeated 'service providers' for many years. It is not surprising that 'Serviceland's' 9 to 5, Monday to Friday, closed on bank holidays, annual leave of six weeks a year, or three 12-hour shifts in a week, turns out to be no way to bring up a child.

Instead of acknowledging that service providers fall far short of parents and families and need to emulate and learn from them, government is apparently intent on imposing 'as we see fit' interventions on the whole population of children.

I believe that we need to have much more respect for parents and families, those 24/7/365 organic lifelong support systems – with their irrational love and attachment and sometimes messy, sometimes conflictual and unhappy relationships. That respect should be the basis for good legislation and good policy for children and families.

## About the author

Maggie Mellon (CQSW, MSc, Dip Child Protection) is a social worker with many years' experience in both Scotland and England. Maggie has been vice chair of the British Association of Social Workers since 2014, and also chairs the Association's Ethics and Human Rights Committee. She is a non-executive Director of NHS Health Scotland and is a member of the editorial Board of *Scottish Justice Matters*, and was formerly Director of Services for Children 1<sup>st</sup> and Head of Public Policy for NCH Action for Children in Scotland. Maggie was chair of the Scottish Child Law Centre from 2009-12. She now works independently as a consultant on social work practice and public policy.