

Who Cares? Scotland

Response to consultation on draft of The Continuing Care (Scotland) Amendment Order 2018

November 2017



Who Cares? Scotland [WC?S] is an independent advocacy and influencing organisation working with care experienced people. We provide direct advocacy to care experienced young people, as well as opportunities for national and local participation. WC?S aims to provide looked-after children and young people in Scotland with knowledge of their rights. We strive to empower them to positively participate in the formal structures they are often subject to solely because of their care experience. At WC?S we utilise the voice of the care experienced population of Scotland to inform everything we do as an organisation.

Q1. Do you agree with the intention, as was stated during development of the 2014 Act, to increase the higher age limit for persons eligible for continuing care from nineteen to twenty years of age from April 2018 to ensure that the current cohort of young people continue to be eligible as they increase in age until the duty to provide continuing care extends from 16 to 21 years of age?

In line with our previous responses in relation to age increases for continuing care, Who Cares? Scotland agrees with the intention to increase the higher age limit for eligibility from nineteen to twenty years of age from April 2018. This intention was clearly communicated by Scottish Government, and widely supported by others, throughout the consultation phase of Part 11 (continuing care) of the Children and Young People (Scotland) Act 2014.

Increasing the higher age limit will guarantee that this piece of legislation follows through on its original promise and will ensure that young people can remain in care until the age of 21, whilst mitigating the poor application of this policy in practice.

Q2. Do you have any other comments on this consultation on the Continuing Care (Scotland) Amendment Order 2018?

Who Cares? Scotland provides independent advocacy to care experienced young people across Scotland. Our independent advocacy relationships provide us with the mandate to inform children and young people of their rights and to empower them to self-advocate and communicate their views when necessary. As highlighted in [our response to the consultation on the draft Continuing Care \(Scotland\) Amendment Order 2017](#), our Advocacy and Participation Workers [APWs] have witnessed young people being provided with inaccurate information regarding continuing care, and inflexible practices. Unfortunately, in the intervening time, examples of this poor practice have only continued to grow, as have our concerns as to the implementation of the continuing care legislation.

The examples encountered by Who Cares? Scotland advocacy workers which we highlighted in our response to the consultation on the draft Continuing Care (Scotland) Amendment Order 2017 were as follows:

- Lack of clarity from professionals around eligibility age (born on or after 1st April 1999).
- Lack of clarity from professionals around age that continuing care should end, with many unclear whether this should happen on the young person's 21st or 22nd birthday.
- Some professionals viewing 'supported accommodation' or hostels as appropriate alternative continuing care placements.

We are now aware of further examples of poor practice of continuing care, which include:

- Many young people who we have supported who are turning 18 whilst in foster placements, have experienced their foster carers being told by their local authority to reregister as supported carers. This will result in significant cuts to payments for the carer and runs counter to S26A(1)(4) of the 1995 Act, which states that continuing care means "the same accommodation and other assistance as was being provided immediately before the person ceased to be looked after". In some instances, this approach has resulted in the foster carer deciding not to continue providing the placement, and the young person being asked to leave with as little as a fortnight's notice.

Such examples suggest that too many professionals still hold a lack of understanding of what continuing care should mean in practice. One way to help address this problem would be to provide further guidance to professionals. Earlier this year WC?S teamed up with the Children and Young People's Commissioner for Scotland (CYPCS) to produce a range of resources to inform young people and professionals about part 10 (aftercare) and part 11 (continuing care) of the Children and Young People (Scotland) Act 2014. These resources include printed booklets, a flowchart, online materials, and videos featuring care experienced young people. The online materials and videos are available on the CYPCS' website here: <https://www.cypcs.org.uk/rights/your-rights-to-care> and printed materials are available from CYPCS on request.

We would suggest that these resources are advertised alongside any relevant guidance, such as the Guidance on Part 10 (Aftercare) and 11 (Continuing Care) of the Children and Young People (Scotland) Act 2014.

As highlighted in our response to the consultation on the draft Continuing Care (Scotland) Amendment Order 2017, in addition to a lack of knowledge around continuing care, WC?S APWs have also witnessed several examples of professionals practicing strict application of the legislation, without taking account of Staying Put guidance¹, which continuing care seeks to encourage application of.

Such examples include:

1. One young person born on 1st March 1999, one month early of continuing care eligibility, being encouraged to leave care before they felt ready and refusal to allow this young person to stay in care until they felt ready to leave.

¹ Scottish Government. 2013. Staying Put Scotland: Providing care leavers with connectedness and belonging. <http://www.gov.scot/Resource/0043/00435935.pdf>.

2. One young person aged 20, currently living in a residential house and studying on an Access course with every intention of progressing on to University this year is being told to leave their accommodation. The young person's grade on the Access course will dictate which institution they can attend, which will most likely be outside their local authority. The professionals involved are insisting the young person must move out as soon as they turn 21, however the young person is asking to be able to stay roughly 4 months longer to work out which University they will be accepted to. If the young person moves out when approaching 21, they must stay in a flat for around 4 months, before potentially moving to a completely different area. A potentially unnecessary move and disruption that could endanger their educational success

These examples suggest that, in addition to poor implementation of the continuing care legislation, there is also inconsistency in how it is being interpreted. In addition, it highlights the need for a more holistic approach which looks at individual need to be used more consistently.

Last month a group of care experienced young people engaged in a discussion on homelessness as part of our regular group work. During this discussion the need for comprehensive continuing care was raised by the young people present. As one young person said:

"It all comes back to not having that safety net, not having that fall back, there's no back-up plan."

Another young person, when asked about what is needed to support care leavers, said:

"Proper funding and investment, into throughcare, post-care placement services. It's like okay you're out your placement now you're not really our problem? We'll find time and money for you, if we can, but you're not a priority anymore when in fact that's the demographic that's at most risk I'd say. They're the ones that are suddenly exposed to so many other dangers cause you're not living in a supervised environment, like there just needs to be an appreciation that these are the people that need those emergency services, need the back-up plans, it needs to be in place and it can't just be done on a when they need it scenario, cause when they need it – it's too late."

If you wish to discuss the content of this response, please get in touch:

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