



Continuing Care and the Welfare Assessment: Practice Note

Research tells us that raising the age at which young people move on from care is the most direct way of increasing their likelihood of a successful transition into adulthood. This consistent research evidence from home and abroad informs both the [Staying Put Scotland Guidance \(Scottish Government, 2013\)](#) and [Part 11 \(Continuing Care\) of the Children and Young People \(Scotland\) Act 2014](#). Evidence shows that extending care placements is associated with sustaining better educational and employment outcomes than leaving care early and with young people receiving more assistance after leaving care.

Part 11 (Continuing Care) of the 2014 Act provides the legislative framework to 'encourage, enable and empower' looked after young people to remain in positive care placements longer. It builds on the principles and philosophical underpinning provided by the Staying Put Scotland Guidance. Section 26A of the 2014 Act places a legal **duty** on local authorities to support looked after young people to remain in positive care until aged **21** years.

The Guidance emphasises the crucial importance of continuity of relationships and the expectation that staying put in positive continuing care arrangements becomes the default and new norm for Scotland's looked after children and young people.

The term Continuing Care refers to a local authority's duty to provide young people whose final looked after placement, on or after their 16th birthday, was in foster, kinship or residential care with the same accommodation and other assistance as was being provided by the local authority, immediately before the young person ceased to be looked after.

Continuing Care enables a young person to remain in the same placement they were in when they were looked after. It should not be used as an alternative to remaining looked after under the Children (Scotland) Act 1995 if it is in the best interest of the young person. A young person who is currently looked after under section 17(6) of the 1995 Act should remain 'looked after' up until the age of eighteen years if that is in their best interest. The Care Inspectorate has produced guidance on admission to care services and Continuing Care to support young people remaining in their placement beyond the age of 16 years.

Continuing Care is available to all eligible young people who were looked after in foster care, in formal kinship care (if they were looked after under section 17(6) or section 25 of the Children (Scotland) Act 1995) and in residential care. This includes young people in foster care or residential education/care purchased by the local authority from private and third sector providers. There are certain caveats to this alongside key processes and considerations, and the aim of this paper is to help to bring greater clarity and understanding, and to support implementation of Continuing Care in practice.



There are three circumstances where a local authority does not have a duty to provide Continuing Care to an eligible young person:

- a) If the young person was accommodated in secure care immediately before ceasing to be looked after;
- b) If the young person was in a care placement where the carer/provider has indicated that they are unable or unwilling to continue to provide the placement; or
- c) If the local authority considers that providing the care would significantly adversely affect the welfare of the person.

Notwithstanding points a) and b) above, the guidance clearly emphasises that the **only** reason for failing to provide Continuing Care is if to do so would significantly adversely affect the welfare of the young person (section 26A(5)(c)). This must be evidenced in a **Welfare Assessment** that meets the requirements of [The Continuing Care \(Scotland\) Order 2015](#) as soon as reasonably practicable before the person ceases to be looked after by the local authority.

Key considerations

- A Welfare Assessment **must** be carried out.
- It is a legal duty on all local authorities for all prospective care leavers, and is not optional.
- The welfare assessment does not need to be a stand-alone assessment and can be incorporated into any existing young person's care plan/Looked After plan/Pathways Assessment and Plan – but it must be clear and explicit.
- There is a legal requirement to make a separate decision about welfare and to provide that decision in writing.
- The assessment has to be carried out within a reasonable time **before** the person leaves care
- The views of the young person must be taken into account and the views of family, anyone with parental responsibilities, carers and accommodation providers, school, college or university and health professionals can be sought and, when sought, must be taken into account.
- The local authority has to record all of these views in a written record and make that record available to the young person again 'as soon as reasonably practicable'
- The young person must be given the decision that comes from the Welfare Assessment and have it explained to them.

The regulations set out the things that must legally be considered by the local authority in carrying out a Welfare Assessment so that this is intended as a comprehensive analysis of what support and accommodation the young person needs and will need into adulthood. It is something that should take time – it is intended to take time.



The involvement of the young person at an early stage should also ensure that they can exercise their right to seek advocacy or advice if needed. The local authority must seek and have regard to the views of the young person. However, a welfare assessment must be carried out, and continuing care provided, even where the young person cannot or does not wish to give their views or attend and participate in any meetings.

The Welfare Assessment should cover:

- The young person's emotional state, day-to-day activities, personal safety, influences and identity.
- Family relationships, children, other caring responsibilities, life story, friends and relationships with other significant people including carers.
- General health (including any mental health needs), contact with health services, medical conditions and disabilities and emotional and mental wellbeing.
- Schooling, skills and experience, qualifications and certificates, training and work.
- Future plans for study, training or work.
- The young person's current accommodation arrangements, practical living skills, accommodation options for the future and any support required for everyday living.
- Sources of income, outgoings, savings and debts, requirement for financial support and budgeting skills.
- Knowledge of their rights and legal entitlements, any previous or current involvement in legal proceedings, including criminal proceedings as a victim, witness, or alleged perpetrator.

A comprehensive, holistic person-centred assessment would generally cover all of the above points as a matter of good practice. These key points align with the key considerations of both the SHANARRI wellbeing indicators and what should be included in a comprehensive and holistic pathways assessment.

The above points clarify the legislative requirements when undertaking a Welfare Assessment. We would, however, also refer practitioners and managers to the Continuing Care (Scotland) Order 2015 itself and to the underpinning principles and philosophy of care outlined in the Staying Put Scotland Guidance. Continuing Care should be considered the default option for young people who are looked after away from home on, or after, their 16th birthday, and they should be 'encouraged, enabled and empowered' to stay put in positive care placements. Individual care plans and service planning processes should anticipate, expect and plan for children and young people electing to 'stay put', with relational practice informing, guiding and supporting this. Additionally, service planning and commissioning processes should anticipate, expect and plan for young people remaining in positive care placements as a matter of course.



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