

Scottish Government submission of 20 December 2023

PE1958/F: Extend aftercare for previously looked after young people, and remove the continuing care age cap

1. This submission provides further information and clarification in response to correspondence from the Participation and Public Petitions Committee, which was received by the Scottish Government on 24 November 2023.
2. The Committee asked for further information as set out below:
 - what data the Scottish Government has on the number of Care Experienced people who have been removed from Compulsory Supervision Orders (CSOs) before their 16th birthday;
 - further information on the steps the Government is taking to address the issue of children and young people being removed from CSOs before their sixteenth birthdays without the long-term consequences of this on their support being explained;
 - whether the Scottish Government has considered providing some form of redress to Care Experienced people who were removed from CSOs prior to their 16th birthday, but who would have remained on a CSO had they been more aware of the long-term consequences of this decision;
 - clarity on the timeline for updating guidance in relation to the provision of continuing and aftercare services;
 - what further progress the Scottish Government intends to make on those issues raised by this petition, which do not require legislative change, between now and the introduction of the Promise Bill;
 - options for accelerating work on The Promise Bill;
 - How the Scottish Government will make effective use of existing evidence to ensure that Care Experienced people of all ages do not have to relive traumatic experiences through multiple consultation processes;
 - information on the implementation plan for The Promise Bill, specifically whether the Government is confident the required funding will be available to support this plan and ensure measures come into effect in a timely manner once the Bill is enacted.

This response will address each of the issues set out above in turn.

The number of Care Experienced people who have been removed from Compulsory Supervision Orders (CSO) before their 16th birthday.

3. It is important to highlight that one of the fundamental principles of The Promise is supporting families to thrive. The Promise states that “Where children are safe in their families and feel loved they must stay – and families must be given support together to nurture that love and overcome the difficulties which get in the way.”
4. In many cases a CSO will be terminated because the family has been supported to address difficulties and it is safe and appropriate for the child or young person to return or remain with their family without the need for compulsory measures.

Table listing the number of CSO’s terminated for different ages:

	Age at order terminated ¹					
Year	12	13	14	15	16	17
2018/19	129	126	164	303	507	329
2019/20	138	142	143	286	472	352
2020/21	88	97	114	176	403	225
2021/22	137	102	108	217	411	381
2022/23	87	90	109	136	326	366

5. The table includes the officially published data, which includes data on CSOs terminated due to Permanence or Adoption Orders.
6. As children can remain on a CSO up to their 18th birthday, we have included the figures for orders terminated at the age of 17 to provide context. For 17-year-olds, some orders are allowed to expire rather than a Hearing being arranged before the child’s 18th birthday. These are included in the figures for orders terminated at 17.

¹ https://www.scra.gov.uk/resources_articles_category/official-statistics/

7. There will be a number of 16-year-olds who remained on a CSO through to age 17. The data shows that an increasing proportion of CSOs terminated were for children aged 16+ over the past five years. This illustrates that increasing proportions of children are being supported by the Hearings System beyond the age of 16 which aligns to the UNCRC principle that everyone under 18 is a child. It also aligns with the provisions within the Children (Care and Justice) (Scotland) Bill, which will see more children aged 16 and 17 being referred to the Children's Hearing System.
8. Within this dataset, there were 75 children who have had CSOs terminated but who have subsequently had another CSO made; this indicates the flexibility of support and decision making within the Children's Hearings System.

What steps the Government is taking to address the issue of children and young people being removed from CSOs before their sixteenth birthdays without the long-term consequences of this on their support being explained.

9. Any child or young person on a CSO should have a Child's Plan in place, and this plan should be used to support their transition from compulsory measures by enabling all of those involved to sufficiently plan for changes together, and in time, to ensure co-ordination and continuity of support.
10. A CSO often places conditions on a child, such as where the child must live or other conditions which must be followed. The Children's Hearing may make, vary, or continue the order or interim variation or grant the warrant, only if the Children's Hearing considers that it would be better for the child if the order, interim variation, or warrant were in force than not.
11. The fundamental principle of Getting it right for every child (GIRFEC) is to provide all children, young people, and their families with the right support at the right time. Well-planned transitions are a vital element of a support planning process that works for children or young people and their families, and the GIRFEC principles and approach should be applied consistently across the range of services

around a child or young person, regardless of whether or not a child or young person is subject to a legal order.

12. To provide context on how relevant agencies are approaching decisions regarding CSOs, Social Work Scotland published a Position Statement in 2019 on children aged between 15 and 17 in the Children's Hearing System², which stated:

Children should continue to be supported on a CSO between the ages of 16 and 18 years, when this is in their best interests: Social Work Scotland is committed to the principle of ensuring that children remain subject to a CSO beyond aged 16 (and up to age 18) when this is appropriate and justified.

13. The Children's Panel training manual³ states:

If a children's hearing considers that a compulsory supervision order is no longer necessary for the child, they may terminate the compulsory supervision order. It is important for panel members to be mindful of the Whole System Approach which promotes vulnerable children remaining on compulsory supervision for an appropriate time after they have reached 16 and potentially up until their eighteenth birthday to ensure that they make as successful transition into adult society as is possible.

14. In 2017 the Scottish Children's Reporter Administration (SCRA) published a report *16 and 17 year olds in the Children's Hearings System, Decision making on continuation of Compulsory Supervision Orders past young people's 16th birthdays*⁴. The report found that:

Much of the current debate on the continued involvement of young people in the Hearings System has centred on the view that Hearings decide to terminate CSOs too early. This research has shown that there is little evidence to support this

² [Social-Work-Scotland-WSA-Guidance.pdf \(socialworkscotland.org\)](#)

³ [The Children's Hearings System in Scotland: Training Resource Manual Volume 1: Legislation and Procedure \(www.gov.scot\)](#)

⁴ [16-and-17-year-olds-in-the-Children's-Hearings-System.pdf \(scra.gov.uk\)](#)

and that in most cases Hearings do continue young people's CSOs past their 16th birthdays.

15. The following data tables were included in the report to support the findings:

Table listing reasons for terminating CSOs before 16th birthday:

Table 6. Reasons for terminating CSOs before 16th birthday

Reasons for CSO termination	Number of young people*
Young person will engage with services on a voluntary basis	20 (62%)
Young person's improved behaviour/ engagement/ progress	16 (50%)
Young person's plans for education/ training/ employment	10 (31%)
Original non-attendance grounds no longer apply	6 (19%)
CSO has made no difference/ young person's non compliance	5 (16%)
Family support	5 (16%)
Young person is nearly 16	3 (9%)
Others	4 (12%)
Total young people	32

*Some Hearings gave more than one reason

Table listing types of CSO when first made, before Hearing within 3 months of 16th birthday, and at Hearing within 3 months of 16th birthday:

Table 4. Types of CSO when first made, before Hearing within 3 months of 16th birthday, and at Hearing within 3 months of 16th birthday

CSO type	CSO - 1st made	CSO <u>p</u> rior to Hearing held within 3 months of 16 th birthday (i.e. aged <15%)	CSO <u>a</u> t Hearing within 3 months of 16 th birthday (i.e. aged >15%)
At home – parent/ relevant person	70 (62%)	46 (41%)	25 (22%)
Foster care	16 (14%)	20 (18%)	15 (13%)
Kinship care	16 (14%)	13 (12%)	9 (8%)
Local authority home/ Children's Unit	7 (6%)	14 (13%)	20 (18%)
Residential school	0	8 (7%)	5 (4%)
Secure Unit	<5	10 (9%)	5 (4%)
Others*	<5	<5	<5
Not recorded	<5	0	0
CSO terminated	0	0	32 (28%)
Total			113

*Shared care, prospective adopters, other residential

16. In November 2020, the Scottish Government launched a national advocacy service to support children and young people who may need independent, expert advocacy support to reinforce their rights when they may need to be involved in a Children's Hearing. The

Scottish Government provides funding to third sector organisations to provide children's advocacy services across Scotland, including £640,939 to Who Cares? Scotland. The chair of a Children's Hearing has a legal duty to inform the child or young person of the availability of advocacy services.

17. It is a key part of the role of an advocacy worker to help children and young people to understand and explore their options and their rights, and to provide information to help the child or young person make informed decisions. An advocacy worker helps to ensure that the child or young person is able to participate and that their views are heard. Annual reporting shows increases in referral rates and complexity in circumstances.
18. The Scottish Government also funds training and a Legal Support Service for independent children's advocacy workers in the Children's Hearing system to support these advocacy workers to increase their knowledge of how to use children's rights to advocate for and support children and young people at Children's Hearings. The Legal Support Service enables advocates to help the children they are supporting through raising awareness of rights.

Consideration of redress for Care Experienced people who were removed from CSOs prior to their 16th birthday, but who would have remained on a CSO had they been more aware of the long-term consequences of this decision.

19. The Scottish Government has not considered redress for care experienced people who were removed from a CSO prior to their 16th birthday. Decisions on CSOs are made independently of the Scottish Government, and so it may not be appropriate for such a mechanism to be put in place.

Timeline for updating guidance in relation to the provision of continuing and aftercare services.

20. Scottish Government officials are currently updating the continuing care guidance and are planning to seek feedback from key stakeholders before publication, which is scheduled for Spring 2024. Updates to aftercare guidance will be considered and consulted on during 2024.

Progress the Scottish Government intends to make on those issues raised by this petition, which do not require legislative change, between now and the introduction of the Promise Bill.

21. To meet the ambitions of The Promise, the Scottish Government is working collaboratively with key stakeholders, including people with lived experience to ensure that all young people are provided with person-centred support specific to their own transition from care.
22. To fully address the concerns identified by The Promise, work is underway on broader policy development that responds to the challenges faced by young people moving on from care, and supports the provision of holistic, lifelong support.
23. As part of this policy development work, we are listening to those with lived experience through our partnership work with the Scottish Throughcare and Aftercare Forum's (Staf) '100 days of listening' to better understand specifically what needs to change so young people experience the best possible support to move on from care into independent adulthood.
24. Staf is seeking to lead a change programme to accelerate the pace of change required for Scotland to achieve the 'Moving On' calls for action within The Promise. The Moving On Change Programme is actively facilitating opportunities to listen to and understand what those with experience of care, and the workforce, need and want to happen for The Promise to be kept for those moving on from care.
25. We will use the themes which emerge from the 100 days of listening to inform the consultation we will launch in Spring 2024 on what the support package needs to include in Scotland to best support our care experienced young people to flourish.
26. This work builds on what we have already done to improve outcomes for care experienced young people. Examples include:
27. The Care Experienced Bursary, which was introduced in academic year 2017/18. It is a non-repayable grant available to Further and Higher Education students with experience of care. The recent increase to £9000 per year represents the next step in the commitment to provide a total package of support equivalent to the living wage whilst also addressing the cost of living crisis and the

impact this is having on students. Additionally, care experienced students can apply for The Care Experienced Accommodation Grant to help with accommodation costs during the summer holiday.

28. The Care Experienced Children and Young People Fund was introduced in 2018/19 to provide investment for local authorities to fund initiatives and interventions aimed at improving educational outcomes for care experienced children and young people, supported by the strategic goals of The Promise and the Scottish Attainment Challenge.
29. In 2018 to ease the financial burden on care leavers, the Scottish Government brought regulations into force to exempt care leavers up to the age of 26 from paying Council Tax.
30. Care experienced parents can access funded early learning and childcare for their 2-year-old. Eligibility varies by local authority, most local authorities state that parents with experience of care are eligible to apply.
31. Care experienced people are also supported as part of the children and young people's Community Mental Health and Wellbeing Supports and Services Framework until the age of 26. The Scottish Government is providing local authorities with £15 million per annum to fund community-based mental health supports for children and young people, their family members, and carers.
32. The Scottish Government is also currently supporting The Promise Scotland to scope a report making recommendations for a national lifelong advocacy service for care experienced people and their families. The report will recognise there may be a need for distinct offerings, independent of one another. It will also take account of the need for independent advocacy and be clear about the definition of independent advocacy. The Promise Scotland has advised they will submit their report to Scottish Ministers for consideration by the end of 2023.
33. We recognise the particular challenges faced by young people who are moving on from care and into adulthood. At any age and for any young person, moving on from home is a challenging time, but when there are limited support networks in place, these challenges can be exacerbated. That is why work is underway to develop The Care

Care Leaver Payment, which is proposed as a £2000 one-off payment to young people moving on from care. The proposed payment is intended to help reduce some of the financial barriers that young people face whilst moving on from care and into adulthood and more independent living.

34. The proposed Care Leaver Payment will form part of a broader package of existing support which includes, but is not limited to, access to continuing care and aftercare support for care leavers, the Care Experience Bursary and Council Tax Exemption for care leavers.
35. We launched a [public consultation](#) on policy proposals for the payment on 3 November 2023. The consultation includes questions on a range of issues including the purpose of the payment, the eligibility criteria for the payment and the support required to apply for and manage the payment. The consultation marks the beginning of the formal conversation in developing the proposed payment. Co-designing the new payment with people who have experience of care and those who provide support to people with care experience will help us to develop a payment which best meets the needs of our young people as they move on from care.
36. The Social Security (Amendment) (Scotland) Bill, introduced to Parliament on 31 October, includes a regulation-making power to create one or more schemes to provide financial assistance for people with care experience. It is intended that this power will be used to deliver the Care Leaver Payment. Details on the eligibility criteria, processes and delivery model will be set out in regulations.

Recommendation that the Scottish Government explore options for accelerating work on The Promise Bill

37. We will introduce a Promise Bill by the end of this Parliamentary Session which will provide opportunity to make legislative changes in support of actions to Keep The Promise. For example, legislation may be needed to implement recommendations of the Children's Hearings System Working Group; and in support of guidance that requires to be put on a statutory footing to aid public authorities to do what is necessary to Keep The Promise.

38. To ensure The Promise Bill has the intended impact, it is important that time is taken to consult properly and meaningfully with care experienced people, foster and kinship carers, professionals and practitioners who support care experienced people and key stakeholders before legislation is introduced. Work is underway to deliver the actions set out in The Promise as quickly as possible.

Recommendation that the Scottish Government explore options for making effective use of existing evidence to ensure that Care Experienced people of all ages do not have to relive traumatic experiences through multiple consultation processes.

39. We aim to build on the work of the Independent Care Review rather than duplicate it and will refer to the learning set out in The Promise before conducting new consultation or engagement activity. To ensure policies are being developed in alignment with the feedback and views of care experienced people, it is important that the understanding and approach taken by Scottish Government is sense-checked with those with lived experience. We aim to do this in a trauma-informed and supportive way.

40. We are also aware of the importance of feeding back progress updates and explaining to those who do participate in engagement and consultation activities how their feedback has been used. We will continue to prioritise closing the feedback loop when engaging with the care experienced community.

41. We are actively seeking opportunities to work with our strategic partners to prevent over-consulting and asking care experienced people to tell us what they have already told us. As set out at paragraph 24, Staf is leading a change programme to accelerate the pace of change required for Scotland to achieve the 'moving on' calls for action within The Promise. We are working in partnership with Staf on the 100 Days of Listening consultation to listen to and understand what those with experience of care, and the workforce, need and want to happen for The Promise to be kept for those moving on from care.

Information on the implementation plan for The Promise Bill, specifically whether the Government is confident the required funding will be available to support this plan and ensure measures come into effect in a timely manner once the Bill is enacted.

42. As is normal practice during a Bill's development, the Scottish Government will give careful consideration to the financial implications and timescales for delivery for each of the provisions set out within the Bill. The Financial Memorandum, which will accompany the introduction of the Bill to Parliament, will include modelling on the costs to implement the provisions in the Bill.