

## Briefing for the Citizen Participation and Public Petitions Committee on petition [PE1958](#): 'Extend aftercare for previously looked after young people, and remove the continuing care age cap', lodged by Jasmin-Kasaya Pilling on behalf of Who Cares? Scotland

### Brief overview of issues raised by the petition

- The petitioner calls for the Scottish Parliament to urge the Scottish Government to extend aftercare provision in Scotland to 'previously looked after' young people who left care before their 16th birthday, on the basis of individual need. This petition also calls for an extension to continuing care throughout Care Experienced people's lives, on the basis of individual need; and for Care Experienced people to have lifelong rights. This includes ensuring that the UN Convention on the Rights of the Child and the findings of The Promise are fully implemented in Scotland.
- Currently there are 13,255 children and young people looked after<sup>1</sup> by local authorities across Scotland. In 2020-21, 534 young people were recorded as entering Continuing Care with 7,323 young people eligible for aftercare as of 31<sup>st</sup> July 2021 ([Scottish Government, 2021](#)).

### Aftercare

- Aftercare is defined by the [Children \(Scotland\) Act 1995](#) as 'advice, guidance, and assistance'. This can include (but is not restricted to) helping a young person to secure accommodation, education and employment opportunities, and financial support.
- The [Children and Young People \(Scotland\) Act 2014](#) amends this to ensure any young person who at the point of leaving care, has reached 16 years of age can access aftercare services.
- Since April 2015, aftercare eligibility has also been extended to cover all care leavers up to, and including, people aged 25 years (where it previously only covered young people up to their 21<sup>st</sup> birthday).

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<sup>1</sup> Under the Children (Scotland) Act 1995, 'looked after children' are defined as those in the care of their local authority.

## **Continuing Care**

- Continuing Care is the continued provision of accommodation and other assistance provided by local authorities immediately before the young person ceased to be looked after. Only children who cease to be looked after aged 16 years or over and were looked after away from home are eligible for Continuing Care. 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.
- [Staying Put Scotland 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.

## **Independent Care Review**

A 'root and branch' review of the care system in Scotland was announced by First Minister Nicola Sturgeon in October 2016. Chaired by [Fiona Duncan](#), CEO of the [Corra Foundation](#), 5,500 people with experience of the care system were involved over the course of the review.

[The review – called The Promise](#) – was published in February 2020, setting out steps Scotland can take to embed significant change in the care system.

With regards to Continuing Care, Aftercare, and the rights of Care Experienced young people, The Promise recommends:

- Aftercare must take a person-centred approach, with thoughtful planning so that there are no cliff edges out of care and support;
- Young people must be encouraged to 'stay put' in their setting of care for as long as they need to. Rules, regulations and systems must support that approach. There must be no regulatory barrier for young people to stay with foster carers for as long as is required;
- Scotland must ensure that current definitions that act as the access point for rights and entitlements are inclusive enough to benefit all young people for whom Scotland has had parenting responsibility.

The report recognises that present definitions that operate do not ensure that those who leave care prior to their sixteenth birthday are able to access legal entitlements, even though they have been removed from their families by a decision of the State. Current definitions also prohibit those who have experienced adoption disruption from being able to redress the failure of this decision and access those entitlements.

## **United Nations Convention on the Rights of the Child (UNCRC)**

The Scottish Government intends to fully incorporate the [United Nations Convention on the Rights of the Child \(UNCRC\)](#) into law. The UNCRC Incorporation (Scotland) Bill was passed in March 2021 but cannot be enacted

following the Supreme Court's judgement that it goes beyond the powers of the Scottish Parliament. The Scottish Government has restated its commitment to full incorporation but the timescale and process for this is not yet clear. Full incorporation of UNCRC would ensure rights-based approaches are taken and rights breaches are prevented, giving children access to legal redress if their rights are breached.

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[23/08/2022]

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at [spice@parliament.scot](mailto:spice@parliament.scot)

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