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1. Introduction

It is recognised that care leavers have long had poorer outcomes than their non-Looked After peers, in terms of education, employment, and physical and mental health etc. Their needs are complex, reflecting backgrounds of trauma, loss and instability. Safeguarding and promoting their welfare and wellbeing can, therefore, be challenging. As a Local Authority, there are a number of duties and powers given on behalf of Care Leavers. Over the last few years, there have been a number of changes as the needs of this group of young people have been highlighted and focused upon.

The Staying Put Scotland Guidance (2013) promoted the needs of young people, focusing upon connectedness and belonging. It recognised that young people require support over an extended period of time.

The Children and Young People (Scotland) Act 2014 created the new provision of Continuing Care. This provision placed a duty on local authorities to provide care leavers, whose final placement was 'away from home', with a continuation of the kinds of support they received prior to their ceasing to be looked after. There was a phased implementation and some changes made but currently all eligible young people aged 16-18 years old can request Continuing Care, which means they can request to remain in their care placement up to their 21st birthday. This is a new legal status which results in the young person no longer being Looked After by the Local Authority – but it also does not make them immediately eligible for Section 29 Aftercare (Children (Scotland) Act 1995), as they will remain in a care placement.

This policy and practice guide focuses upon Continuing Care. The Scottish Government state that there are 3 main aims or objectives to the principle of Continuing Care:

- To address the inequalities between looked after children and their non-looked after peers by providing a stable home and ensuring that young people are not discharged from care until they are prepared and ready to leave;
- To improve the assessment, preparation and planning for young people leaving care; and
- To provide better personal support for young people after leaving care.

(Taken from Guidance on Part 11 (Continuing Care) of the Children and Young People (Scotland) Act 2014)

The Independent Care Review published in February 2020 also told us that children and young people need any transitions to be: limited in number, be relational, be planned and young people must be informed and involved as much as possible and it would be the vision that this policy and procedure will meet these needs and, therefore, this policy will be reviewed at least on an annual basis to ensure that the Moray Council are "Getting it Right" for the young people who are eligible for, and enter, Continuing Care.

2. Scope of this Policy

This policy focusses on the transitions of young people, including those with additional support needs, between being supported through the Looked After process to being supported within the Continuing Care process.

The policy supports the effective assessment, planning and review process for each young person to support this change to happen as efficiently as possible.

This policy should be read in conjunction with the Transitions from Children Services Policy as this outlines the assessment process which will identify the route which will best meet the young person's needs and provide the best outcomes for them as they move to adulthood.

3. Where, and for whom this Policy Procedure applies

This policy principally applies to Social Work professionals employed by the Local Authority but will be of interest to all professionals who support Looked After Children, who are accommodated on their 16th birthday, or anyone else who has an interest, either personal and professional, in the subject.

4. General Principles

The core principles of this policy emphasise the importance of having a strong, explicit philosophy of care which promotes actively delaying the exit of young people from their care placement up to the age of 21, and continuing in that setting until they are confident, skilled and ready to move on.

Similar principles are outlined in the Scottish Government's "Staying Put Scotland" document:-

- Young people are encouraged, enabled and empowered to remain in positive care settings until they are ready to move on.
- No looked after young person leaves care without the skills and support necessary for success.
- Local authorities and their corporate parenting partners will have made explicit their commitment to the "Staying Put Scotland" approach.

In addition Getting it Right for Every Child (GIRFEC) principles also apply:-

- Planning will follow a holistic, young person-centred approach
- Assessment will focus on the long-term wellbeing needs and aspirations of care leavers;
- Intervention will be appropriate, proportionate and timely.
- There will be high standards of cooperation, joint working and communication between agencies, young people and where appropriate, their families to achieve best outcomes for young people.

5. Relevant legislation, strategies and policies:

- The Independent Care Review 2020
- The Children and Young People (Scotland) act 2014
- Scottish Care Leavers Covenant 2014
- Supporting Young People Leaving Care in Scotland: Regulations and Guidance on Services for Young People Ceasing to be Looked After by Local Authorities published in 2004
- These are our Bairns Scottish Executive 2008
- Freedom of Information (Scotland) Act 2002
- The United Nations Convention on the Rights of the Child
- The Human Rights Act 1998 and Equality Legislation
- Data Protection Act 1998

6. Involvement of the young person

Professionals working with young people to assess and plan how to meet the young person's needs **must** seek and take account of the young person's views and wishes. Professionals must take steps to make sure that the young person can attend and take part in meetings that are held about the young person. At a minimum the views of the yp, if not the yp, must be "at the table". Professionals should ensure that the timing of meetings does not prevent/ discourage the young person from attending. Professionals will be encouraged to be creative to ensure that the views of the young person are sought and heard, e.g., using video clips, or drawings or writing etc. Professionals must ensure that the young person has received, and understands the information on which decisions are made.

If the young person has any particular needs because of language or impairment, professionals should make sure the assessment and other materials are in a format accessible to them.

Advocacy is available for looked after young people. At the time of creating this refreshed policy the advocacy provider is Who Cares? Scotland. Professionals should ensure that the young person is aware of this service and support them to access it if required. Some young people will choose to speak for themselves or will have another person act as their advocate: the outcome to be achieved is to hear the views of the young person at the table.

7. Who is eligible for Continuing Care?

The Moray Council has a duty to provide Continuing Care for **all** young people who request it and who are Looked After and Accommodated on their 16th birthday. This includes all young people with a disability whose future support may be given by Adult services following their 18th birthday and also those YP with a disability for whom a Guardianship order may be sought as their Guardians will be able to make decisions in the best interests of the young person. These young people will be either:

- In a foster-care placement either provided by the Moray Council or by an independent provider purchased by the Moray Council.
- Within a Looked After kinship care placement (i.e., not subject to a Kinship order).
- Within a residential setting either provided by the Moray Council or by an independent provider purchased by the Moray Council.

These young people will be eligible to remain in their care placement up to their 21st birthday. A young person may be subject to either a Compulsory Supervision Order away from home, or be being Looked After on a voluntary basis or be subject to a Permanence Order: it makes no difference to their eligibility. A Continuing Care placement can start at the age of 16, if the young person's would prefer their Looked After status ends then, but The Moray Council encourages all young people to remain looked after until they are 18, in which case Continuing Care is most likely to apply from 18 to 21. It should be noted that if a young person is subject to a Permanence Order then the transition of their placement to a Continuing Care placement cannot begin until their 18th birthday, as this is when their Permanence Order will automatically end.

8. Who is not eligible for Continuing Care?

The Moray Council does not have a duty to provide Continuing Care for:

- A young person who is subject to a Kinship Order through the Children Scotland Act (1995) as they are not Looked After by the Local Authority.
- A young person who is subject to a Compulsory Supervision Order at home as they are not Looked After and Accommodated by the Local Authority.
- A young person if they were accommodated in secure care immediately before ceasing to be looked after.
- A young person whose carer/placement provider has indicated that they are unable or unwilling to continue to provide the placement; or
- A young person whose welfare would be significantly adversely affected if they remained within the placement.

9. Continuing Care Procedure

Shortly before a young person's 15th birthday a Looked After Review (LACR) will ask for a Pathway – Initial Assessment to be completed which will identify the young person's needs as they move into adulthood (See Appendices 1, 2 and 3). This assessment will be completed in partnership with the young person and other important people in the young person's life. The outcome of this assessment will be, firstly, to identify what the young person plans are for them following their 16th birthday and where they see themselves living and, secondly, the support needs of the young person as they move into adulthood and where these will be best met. At this LACR it will be identified whether an additional/specialist assessment is required to assist the process of transition to adulthood. This will, although not exclusively, usually relate to young people with additional support needs such as complex medical health needs, a learning disability, mental health or emotional wellbeing needs and those young people who present with challenging behaviour and who, as they become young adults, may struggle to manage with a more independent lifestyle. This assessment will be carried out by either the young person's Social Worker, or after discussion with the young person, a Throughcare Worker from the Placement Services Team and in partnership with a Social Worker from the Adult Transition Service if this would be of assistance.

10. Potential Outcomes and Actions following the completion of a Pathway – Initial Assessment

1. When the outcome of the Pathway – Initial Assessment is that an (eligible) young person has decided that they wish to stay in their current care setting, potentially up to their 21st birthday under Continuing Care then a full Pathway and Welfare Assessment (please see Appendices 4 & 5) will need to be completed to ensure that this would not significant adversely affect their welfare. This assessment need not be carried out until nearer the young person's 17th birthday to progress the conversion of their placement to that of a Continuing Care placement. *Please note: the date of this full Pathway and Welfare Assessment may need to be earlier if the young person is requesting Continuing Care begins between their 16th and 18th birthday and are not subject to a Permanence Order.*

Attached at Appendix 6 is a practice note, written and endorsed by CELCIS (Centre for Excellence – Children’s Care & Protection), the Care Inspectorate and Clan Childlaw which provides further useful guidance and information.

2. When the outcome of the Pathway – Initial Assessment is that a young person sees themselves only staying within their placement until their 18th birthday and is not requesting Continuing Care then a full Pathway Assessment will need to be completed following a young person’s 16th birthday. A Throughcare/Aftercare Worker will take the lead in coordinating this assessment.
3. When the outcome of a Pathway – Initial Assessment is that a young person sees themselves leaving their placement at the age of 16, then a Throughcare/After Worker is to be allocated to a young person and a full Pathway Assessment is to be completed to support the young person with their future plans.

11. Financial Support of a Continuing Care Placement

For Continuing Care providers who were previously LA Foster-carers

For Continuing Care providers who were previously LA Foster-carers, they will continue to receive the equivalent of their last fostering-fee and allowances for the first year of the young person’s continuing care placement. However, if a young person is working and earning over £14,344 per annum, then these allowances will be reduced by 50%. At the start of the second year of the young person’s continuing care placement a fixed fee of £255.07 will be given to the Continuing Care provider and no allowances will be paid provided the young person is 19 years old at this point. If the young person is under the age of 19, then allowances will continue to be paid until they reach their 19th birthday. A review of the Continuing Care placement will take place shortly before a young person’s 19th birthday and a part of this review will be to ensure that a change in the financial support of the placement will not negatively impact upon its continuation. The Continuing Care provider and the young person will both have access to an appeal process, using the Moray Council’s current complaints procedure if they are unhappy with any decisions made. The Continuing Care provider will continue to receive this fee until the young person leaves the placement or their 21st birthday, whichever applies.

For Continuing Care providers who were previously Kinship Carers

For Continuing Care providers who were previously Kinship Carers, they will receive a fee of £255.07 from the start of the Continuing Care placement and this will continue until the young person’s 21st birthday or before this if the young person is no longer in placement. Part of the Welfare Assessment for the young person will be to make sure that there is sufficient financial support for a Continuing Care provider to ensure the continuation of the placement. The Continuing Care provider and the young person will both have access to an appeal process, using the Moray Council’s current complaints procedure if they are unhappy with any decisions made.

For Continuing Care providers who were previously independent Foster-carers

For placements provided by independent fostering agencies, the Commissioning team will enter into negotiation in relation to the development of a new contract with the provider as a Continuing Care Provider. See also Appendix 7 for details of how to request continued financial support of this placement.

For Continuing Care providers who were previously external Residential Care providers

For placements provided by external residential setting providers, the Commissioning team will enter in negotiation in relation to the development of a new contract with the provider as a Continuing Care Provider. See Appendix 7 for details of how to request continued financial support of this placement.

12. Young People who attend University or College away from their Continuing Care Placement

For the first year of a young person's university or college course, the Continuing Care provider will continue to receive their full fee and allowances if this is also the first year of the continuing care placement. Following this, they will receive the £255.07 on a pro rata basis for the time the young person is at home e.g. weekends and holidays. These changes in financial support will form part of a review of the young person's placement and the young person and Continuing Care provider would both have access to an appeal process procedure, (under development), if they are unhappy with any decisions made.

If the Continuing Carer was a previous Kinship Carer then they will receive a fee of £255.07, if this is also the first year of the continuing care placement. Following this, they will receive the £255.07 on a pro rata basis for the time the young person is at home e.g. weekends and holidays. These changes in financial support will form part of a review of the young person's placement and the young person and Continuing Care provider would both have access to an appeal process procedure (under development), if they are unhappy with any decisions made.

13. Reviewing of a Young Person's Continuing Care Placement

A Review of the Continuing Care placement will take place after 3 months of the conversion date. This will be chaired by the most appropriate service. Following this an annual Review will be held (additional Reviews may held when necessary, i.e., when discussing attendance at University or College courses away from the placement). The basis for review will be that for the continuation of the placement it must not be significantly, adversely affect the wellbeing of the young person.

14. Ending of a Continuing Care placement

The placement will end if:

1. the young person chooses to leave the placement
2. the accommodation ceases to be available
3. the LA consider that providing the care would significantly adversely affect the welfare of the person.
4. The young person reaches the age of 21 and had remained within the continuing care placement until that age.

The young person will at this point be eligible for aftercare in accordance with their assessed needs. The principle of relationship based care should follow, with plans incorporating how any previous relationships can be maintained and sustained over time, if appropriate.

It would be hoped that any transition out of a continuing care placement (which means it ending as a formally registered and financed service) will be carried out in a planned way as possible. Particularly in relation to point 4 above, planning for the young person's next steps should be an ongoing conversation but, following the young person's 20th birthday, focus should be placed on what happens next to ensure that discussions can be held with the young people and their support network to ensure a smooth ending of the Continuing Care placement and to make firm plans for the next steps which could involve remaining living with their continuing care setting.

15. Appeals Process

If a young person is unsatisfied with the service they have received from The Moray Council or any decisions made that they are not in agreement with, they have the right to appeal using The Moray Council Social Work Complaints Procedure.

If a young person's complaint relates to a care service that The Moray Council provide, they can choose whether to complain to The Moray Council or the Care Inspectorate. A young person will be able to find out about both complaints procedure by contacting either organisation directly either by telephone, email or through their respective websites:

The Moray Council:

Website: <http://www.moray.gov.uk/>
Telephone: 01343 543451
Email: complaints@moray.gov.uk

Care Inspectorate:

Website: <https://www.careinspectorate.com/>
Telephone: 0345 600 9527 Monday to Friday, between 09:00 - 16:00
Email: enquiries@careinspectorate.gov.scot

16. Performance Monitoring

The monitoring of performance will focus on the extent to which the specific objective of this policy is being achieved. This is that:

The policy supports the effective assessment, planning and review process for each young person to allow this move to happen as efficiently as possible.

A key component of monitoring the performance of this policy will be gathering the young person's views and those of the care setting.

17. Equalities Statement

Health & Social Care Moray, Moray Council and NHS Grampian do not discriminate on any grounds, advocate for and are committed to equalities and recognises their responsibilities under the Equalities Act 2010 and the related Public Sector Equality Duty.

In relation to equality of information provision, Health & Social Care Moray will ensure that all communications with individuals are in plain English, and shall publish all information and

documentation in a variety of formats and languages. Where required, Health & Social Care Moray will use the services of its translation team to enable effective communication between us and the individual. Where an individual has sight, hearing or other difficulties, we will arrange for information to be provided in the most appropriate format to meet that individual's needs. Health & Social Care Moray will also ensure that there are no physical barriers that could prohibit face to face communications.

If there is a complaint against discrimination, click on the link below for reporting form and procedure: <http://www.moray.gov.uk/downloads/file62366.pdf>.

Equality and Human Rights Commission Scotland

<https://www.equalityhumanrights.com/en/commission-scotland>

Advice and Guidance section - <https://www.equalityhumanrights.com/en/advice-and-guidance>.

18. Data Protection

GDPR and the Data Protection Act 2018 governs the way information is obtained, recorded, stored, used and destroyed. Health & Social Care Moray, Moray Council and NHS Grampian comply with all the requirements of the Act and ensure that personal data is processed fairly and lawfully, that it is used for the purpose it was intended and that only relevant information is used. Health & Social Care Moray will ensure that information held is accurate, and where necessary kept up to date and that appropriate measures are taken that would prevent the unauthorised or unlawful use of any "personal information".

19. Freedom of Information

The purpose of the Freedom of Information (Scotland) Act 2002 <http://www.legislation.gov.uk/asp/2002/13/contents> is to "provide a right of access by the public to information held by public authorities". In terms of section 1 of the Act, the general entitlement is that a "person who requests information from a Scottish public authority which holds it is entitled to be given it by the authority". Information which a person is entitled to is the information held by the public authority at the time that the request is made. This is a complex area of the law that can overlap with the Data Protection Act and other legislation.

Please see the following link for guidance to the law in Scotland;

<http://www.itspublicknowledge.info/Law/FOISA-EIRsGuidance/Briefings.aspx>

All Freedom of Information requests to Health & Social Care Moray, Moray Council or NHS Grampian should be directed to the **FOI/DPA team/officer** in those organisations. At Health & Social Care Moray the contact is info@moray.gov.uk.

20. Human Rights Act

The main rights and freedoms covered in the Human Rights Act 1998 are:

Right to life; freedom from torture; freedom from slavery and forced labour; right to liberty and security; right to a fair trial; no punishment without law; right to respect for private and family life; freedom of thought, belief and religion; freedom of expression; freedom of assembly and association; right to marry; prohibition of discrimination; peaceful enjoyment of property; right to access education and right to free elections.

Public authorities must ensure, in discharging functions that they don't act in a manner incompatible with rights outlined in the Human Rights Act. Only in some limited circumstances can an individual's rights be infringed upon and even then only when done under legal authority, in pursuit of a legitimate aim and when necessary in a democratic society i.e. proportional in terms of finding a balance between carrying out a necessary statutory duty and infringing upon the person's human rights. It is also important that any interference is non-discriminatory. When in doubt about any proposed action legal advice should be sought.

All parts of this policy and associated procedures will comply with obligations within the Human Rights Act

21. Review and Feedback

This policy will be reviewed annually or when policy, guidance or legislation changes.

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