



**REPORT TO: EDUCATION, COMMUNITIES AND ORGANISATIONAL
DEVELOPMENT COMMITTEE ON 3 FEBRUARY 2021**

SUBJECT: CONTINUING CARE – POLICY REVISION

BY: CHIEF OFFICER, HEALTH AND SOCIAL CARE MORAY

1. REASON FOR REPORT

- 1.1 To inform the Committee of recommended changes to the continuing care policy and processes.
- 1.2 This report is submitted to the Education, Communities and Organisational Development Committee following a decision of Moray Council on 17 June 2020 to agree a simplified committee structure as a result of the COVID-19 pandemic. In the case of this committee the combining of the delegated responsibilities of Children and Young People Services, Governance, Strategy and Performance, (para 9 of the minute refers)

2. RECOMMENDATION

2.1 It is recommended that Committee: -

- (i) approves the procedures (APPENDIX A) relating to continuing care processes;**
- (ii) approves the proposed method for financial payments; and**
- (iii) agrees that an annual report is presented to Committee that confirms the budget being spent on continuing care, and which highlights whether the costs of continuing care are in excess of budget allocation.**

3. BACKGROUND

- 3.1 The Children and Young People (Scotland) Act 2014 (the Act) is made up of various parts which place duties on the Council with the aim of improving services to children and young people. Part II of the Act places duties on local authorities in relation to young people who have been looked after, to support them as they transition into adulthood. The ethos of this part of the Act is to encourage young people to remain in their care placement and to be supported for longer once they have reached adulthood.

- 3.2 The right to continuing care applies to eligible young people who are looked after within foster care, approved Kinship Care or residential care placements. It affords young people more choice and places a duty on the local authority to provide continuity of support that meets the welfare needs of the young person up to their 21st birthday. The provision of support and the continuation of a care placement is to provide a bridge from the protected status of a looked after child to adult independence. The duty does not apply to young people who are placed in Residential Schools on the basis of educational placement request, young people in secure accommodation or young people who are looked after at home. The duty applies to young people who are looked after, at least 16 years old and who have a date of birth after 1 April 1999.
- 3.3 The existing policy and procedures for continuing care were approved by the Children and Young People's Services Committee on 18 October 2017 (item 14 of the agenda refers). At that time revision of the policy and procedures was indicated in October 2018 and October 2020, and authority to make amendments in line with legislative and practice issues was delegated to the Chief Social Work Officer. That delegation was at the period when the budget holder and Chief Social Work Officer was the same post holder. This report to Committee seeking approval for changes to the policy and procedures are considered to be wider than practice changes and are recommended at this time, when the budget holder and the Chief Social Work Officer are separate post holders.
- 3.4 In addition to the need for revision based on practice and procedure, this revision is necessary in response to the outcome of complaint made to the Scottish Public Services Ombudsman (SPSO). The need for revision of the continuing care policy, as one aspect of the outcome of that complaint, was reported to Council on (7 October 2020) and to Education, Communities and Organisational Development Committee on 18 November 2020, (para 6 of the minute refers) within the report "SPSO report on Continuing Care and Transitions". The policy for transitions is tabled as a separate item.
- 3.5 The policy and practice recommended at **APPENDIX A**, with associated tools in **APPENDICES I - VIII**, is consistent with Scottish Government guidance on Getting it Right for Every Child and with guidance on Continuing Care and the Welfare Assessment: Practice Note issued by the Centre of Excellence for Children's Care and a Protection (CELCIS), the Clan child law centre and the Care Inspectorate. See **APPENDIX B**
- 3.6 The inclusion of recommended practices within the policy, for young people who go to university or who are at college at distance from their home, were developed given one specific case that was being actioned through judicial review. The Council has a duty under regulations made under s29 Children (Scotland) Act 1995 to provide accommodation for young people at university/college, see **APPENDIX VIII**, if that accommodation is not available to them at holiday periods.
- 3.7 The key points of interest and of potential risk that will be of most interest for Committee are the costs associated with the recommended policy and practices.

- (i) It is recommended that when a young person goes away to higher education their local authority foster carer or kinship carer, will receive the same sum as they had been receiving, in the year before the young people left to go to university. It is recommended that this should continue for the first year to ensure that the young person has the emotional support and option to return for support to what has been their known home.
- (ii) In the years following that initial year it is recommended that the carer will receive the pro rata equivalent of what are support accommodation project rates. The detail is in **APPENDIX A**
- (iii) For young people who remain in the continuing care of their foster or kinship carer, for the first year, the sums made payable will not change unless the young person earns a sum which is in excess of the living wage – in which case allowances paid will reduce.
- (iv) In the second and subsequent years, consistent with the approach for young people who are away from home at university, the sum payable will be that which is consistent with the sum payable for supported lodgings provisions. This would be whole week.
- (v) For young people who have been in independent foster care, the commissioning team will agree with the care provider rates which will not be less than those payable had the carer been a local authority carer.
- (vi) For young people who are cared for in residential care out of Moray, the commissioning team will agree with the care provider rates which reflect the ethos of the legislation but which also reflect the level of care that the young person is receiving from the care provider.
- (vii) For young people who are cared for in residential care in Moray, given that care is block funded it will be difficult to calculate the sum, for purposes of knowing how much budget is being spent on continuing care.
- (viii) It is in part for this reason that an annual report should be made to committee, to explore the numbers of young people who are in continuing care and to explore the budget that is aligned to continuing care.

3.8 The original report to Committee in October 2017 advised that the Scottish Government had provided additional funding to implement continuing care. The sum allocated to Moray to implement continuing care was £68,000, detail was contained within the report to Committee on 7 October 2015 (paragraph 9 of the minute refers). There is currently £147,000 funding available for Continuing Care for young people who choose continuing care as a placement option and remain in placement until they are 21 years old.

- 3.9 The report then identified the risk that there would be a sizeable shortfall in budget, given the guidance that care givers should experience no change in sums payable following change of status to continuing care.
- 3.10 Current numbers of young people choosing to remain in continuing care have been small; currently 3 and previously 4. Most having been from kinship care but increasingly some young people have been cared for in local authority foster care. There is one young person in residential care out of Moray.
- 3.11 The budget for continuing care has been met from the placement funding stream in which the young people had had their placement as a looked after child: in the main kinship care and fostering. At the Committee in October 2017 it was agreed that as placements are made in continuing care, the budget from the budget stream in which the young person had been cared would move into the continuing care stream whenever possible, without creating overspend in the original budget stream. That has been the practice to date. Discussion with accountancy has confirmed that especially for the young people who move to continuing care from fostering and kinship care, given the underspend in the fees and allowances this alignment is affordable at this time.
- 3.12 However there are issues as noted in aligning the budget for young people who are in residential care both within and out of Moray.
- (i) Within Moray there is an allocated budget (Cala) or a contract sum (Action for Children). Reporting will be on the number of young people who are cared for on the basis of continuing care. The budget however will be a crude calculation based on simple division.
 - (ii) Out of Moray the sum is made payable through the Additional Resource and Allocation Group (ARAG) based on the assessed needs of the young person; the legislation and the ethos of continuing care.
- 3.13 It might have been helpful to try to provide an estimate of possible future numbers of young people and estimated costs associated with continuing care but given the variables of age; months/ years that a young person may seek continuing care; the various care bases within which such care might be provided, giving an estimate is not possible. In the report to Committee in 2017 we did try to offer estimate but the table was not reflective of what happened for those young people, so confirms that an estimate is not a helpful indicator.
- 3.14 The aim of continuing care provision is to encourage, enable and empower young people to stay in an existing care placement until they are able to demonstrate their readiness and willingness to move on to independent living. The revision to policy and procedures as recommended and contained at **APPENDIX A** with associated appendices, is reflective of the legislation, the guidance that has been developed by CELCIS, the Care Inspectorate and Clan Law and addresses the outcome and requirement from the SPSO complaint and outcome relating to continuing care.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The Children's Services plan 2020/23 identifies improving outcomes for looked after children as a key priority the Children and Families and Justice Social Work service improvement plan identifies actions to be taken to support these improvements the Corporate plan (2020 update) identifies the following priorities:

Work with families as partners to give their children the kind of lives they want them to lead so that children grow up to be strong and resilient;
Improve the life chances and outcomes for care experienced children and young people
Improvement in children and young people's health and well-being

(b) Policy and Legal

The relevant legislation and policies are detailed within the report.

(c) Financial implications

The financial implications are unknown. The risk is concerned with significant shortfall in budget. The proposal is to continue to align budget as the young person moves from one care base to continuing care when possible and to report on this annually to Committee.

(d) Risk Implications

The risk is noted in the body of the report in that there was the requirement made by the SPSO to review policy for continuing care and further, in relation to one young person the case was settled prior to judicial review.

(e) Staffing Implications

There are no direct staffing implications associated with this report.

(f) Property

There are no direct property implications associated with this report.

(g) Equalities/Socio Economic Impact

An equality impact assessment was carried out and found no negative impacts.

(h) Consultations

Chief Executive, Moray Council; Chief Social Work Officer; Head of Service, Children & Families & Criminal Justice Services; Senior Human Resources Adviser; Principal Accountant, Morag Smith, Senior Solicitor, Tracey Sutherland, Committee Services Officer and the Equal Opportunities Officer have been consulted in the preparation of this report and are in agreement with the content relating to their areas of responsibility.

5. CONCLUSION

5.1 It is recommended that Committee approves the revision to the policy and provision for continuing care.

5.2 That annually a report on the number of children and costs for continuing care is submitted to Committee. It is recommended that this is forwarded to Committee following end of financial year, so that detail of budget is known.

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Background Papers:

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