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| **Operational Guidance on Part 11: Continuing Care** |

This guidance explains how Falkirk Council will implement Part 11 of the Children and Young People (Scotland) Act 2014. The content reflects the Scottish Government Guidance and Staying Put Scotland: <https://www.gov.scot/publications/guidance-part-11-continuing-care-children-young-people-scotland-act/> <https://www.gov.scot/publications/staying-put-scotland-providing-care-leavers-connectness-belonging/>

**Section 1 - Eligibility for Continuing Care**

**Looked After Young Person**

The definition of a looked after child is set out in s17 (6) of the Children (Scotland) Act 1995, as amended by the Adoption and Children (Scotland) Act 2007 and Children’s Hearings (Scotland) Act 2011). A looked after child is:

* Provided with accommodation by a local authority under s25 of the 1995 Act; or
* subject to a Compulsory Supervision Order or an Interim Compulsory Supervision Order made by a Children’s Hearing
* Living in Scotland and subject to an order in respect of whom a Scottish local authority has accepted responsibilities, as a result of a transfer of an order (regulations under s33 of the 1995 Act/section or 190 of the 2011 Act)
* Subject to a Permanence Order under Section 80 of the Adoption and Children (Scotland) Act 2007 (3)

Continuing Care is a local authority’s duty under section 26 (a) of The Children (Scotland) Act 1995 to provide young people looked after away from home and born after 1 April 1999, who are at least 16 years of age, with the same accommodation or other assistance as was being provided by the local authority immediately before the young person ceased to be looked after.

The aim is to provide young people with a consistent level of support until they are ready to leave their placements.

Continuing Care may continue until a young person reaches the age of 21. Continuing Care is available to young people:

* Who are looked after in residential care, foster care or formal kinship care if subject to a Compulsory Supervision Order (under s17 (6)) or s25 of the Children (Scotland) Act 1995)
* Who are subject to a Permanence Order under Section 80 of the Adoption and Children (Scotland) Act 2007

A young person who has been adopted or secured in a placement with friends or relatives on a Kinship Order (under s11 of the Children (Scotland) Act 1995) is not considered looked after and accommodated therefore is not eligible for Continuing Care.

A young person who is looked after at home is not eligible for Continuing Care.

**Section 2 – Exceptions to providing Continuing Care**

Continuing Care is not available in the following circumstances:

1. If a young person is accommodated in secure care immediately before ceasing to be looked after and accommodated
2. 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
3. If the local authority considers that providing the care would **significantly adversely affect the welfare of the young person**
4. If the young person is placed in kinship care and not subject to a supervision requirement at their 16th birthday

The consideration for 3 is that provision of care must significantly and adversely affect the welfare of the young person requesting Continuing Care, **not** whether this young person affects anyone else’s welfare. A comprehensive assessment specifying significant risk to the young person is required to support this decision (e.g. form 5 Child’s plan paperwork)

If Continuing Care is not available then accommodation and practical and financial support should be offered to the young person to reflect what would have been offered had their care placement been available. More detail is available in s72 and s73 of Scottish Government Guidance.

**Section 3 - Principle**

The aim of Continuing Care is to provide young people with a more graduated transition from care, supporting independent skills, reducing the risk of multiple disruptions in their lives and maintaining supportive relationships.

Continuing Care aims to:

* Address the inequalities between looked after children and their non-looked after peers by providing a stable home and ensuring they are not discharged from care until they are prepared and ready to move on positively
* Improve assessment, preparation for independence and planning for young people leaving care
* Provide looked after young people with better personal support after leaving care

**Section 4 – Legal and Practice Considerations**

An eligible young person who opts into a Continuing Care arrangement is requesting to remain with the same carers and to receive the support, detailed in their plan, which meets their assessed needs.

The Continuing Care (Scotland) Order 2015 specifies that a young person opts into a Continuing Care arrangement from the date they cease to be looked after whilst remaining in placement. This could be at the point of termination of their Compulsory Supervision Order under Section 83 of the Children’s Hearings (Scotland) Act or at the point of their 16th Birthday when voluntary arrangements under Section 25 of the Children (Scotland) Act ceases to apply. For this reason a placement under Section 25 cannot be used as a Continuing Care arrangement. Likewise, whilst Permanence orders remain in place to 18 years, any measure of residence is only in force to 16 years.

The opt-in to a Continuing Care arrangement should have the full participation of the young person and the plan should confirm the opt-in to Continuing Care under Section 26 of the Children (Scotland) Act 1995. Practitioners should support a young person in their placement up to the age of 18 years and not seek to remove any compulsory supervision order where a legal framework continues to be required to manage any conditions related to their care.

Continuing Care should be one of the options considered and planning should start before the young person’s 16th birthday regardless of legal status. It should be noted that if the young person ceases to be looked after prior to their 16th birthday, they are not eligible for Continuing Care or Aftercare.

Continuing Care planning for young people with a disability and/or diagnosis which may require ongoing social work support into adulthood must begin before the young person reaches their 16th birthday. Transitions arrangements to Adult Social Work Services will start at this point to determine whether transition and ongoing support will be led by Adult Social Work Services or the Leaving Care Team. A  [Draft Transition Flowchart for Young People with Disabilities](file:///%5C%5Cs-fk-fs11%5Csocialwork%5COperational%20Guidance%20for%20Continuing%20Care%5CArchive%20versions%20of%20guidance%5CV2%20Draft%20Transition%20Flowchart%20for%20Young%20People%20with%20Disabilities.docx) is being developed to assist practitioners.

**Section 5 – Raising Awareness**

It is the lead professional’s responsibility, in partnership with the Team Around the Young Person, to ensure that all eligible young people are aware of their right to choose Continuing Care as one of the available options open to them in their care journey.

As Continuing Care becomes embedded all eligible young people, from the point that they understand they will not return home, should know about their right to stay where they are in order to receive the support they need as they transition toward independence.

A  [leaflet](file:///%5C%5Cs-fk-fs11%5Csocialwork%5COperational%20Guidance%20for%20Continuing%20Care%5C16%2B%20Continuing%20Care_A5.pdf) has been designed for young people to give them basic information about Continuing Care.

**Section 6 – Planning and Review**

Children and young people should be encouraged to learn skills that will help them mature naturally while living with their carers. Falkirk Council have several programmes and tools which help with this, including the Independent Living Plan ( ILP) for foster carers, the Continuing Care and Life Skills Programme for residential carers and the Care Leavers Housing and Support Needs Matrix which identifies the areas the young person needs support in to help them prepare for their own tenancy. Communication and planning with the carers, and their role in supporting independence needs to be clear and stated in care plans.

All young people, within 6 months of their 16th birthday, will have had their views and options considered as part of their forward planning. These will include remaining looked after under compulsory supervision until 18 years, choosing to opt in to Continuing Care or moving to Aftercare. They should be as well informed as possible about their accommodation and support options and their views must be taken into account.

Young people should remain looked after on a Compulsory Supervision Order up until the age of 18 years if that is in their best interest and regulation of some aspect of their care and support is required.

Young people looked after on Voluntary Orders or Permanence Orders should be encouraged to consider Continuing Care from their 16th birthday as this provides more security to their placement. (See Section 4 Legal and practice Considerations).

Young people with complex needs will require additional transition planning and consideration regarding appropriate pathways as detailed.

Flowcharts ([**CC Flowchart S25**](file:///%5C%5Cs-fk-fs11%5Csocialwork%5COperational%20Guidance%20for%20Continuing%20Care%5CCC%20Flow%20Chart%20S25v3%20-%20Apr17.docx) [**CC Flowchart CSO & LAAF**](file:///%5C%5Cs-fk-fs11%5Csocialwork%5COperational%20Guidance%20for%20Continuing%20Care%5CCC%20Flow%20Chart%20CSOv3%20-%20Apr17.docx)**)** have been developed to assist practitioners.

When Continuing Care is considered likely beyond a young person being looked after then this should be confirmed at their Looked After Away from Home Review and recorded in The Child’s Plan. An early review may need to be convened if this has not been confirmed in an earlier plan.

The allocated social worker will have:

* Confirmed whether or not the carer is willing and able to have the young person remain living with them
* Confirmed whether the young person wishes to stay beyond the looked after period
* Confirmed that funding is available to support the placement

A team around the child transfer meeting should be convened thereafter to draft a Continuing Care Placement Agreement.

Before the placement changes to Continuing Care, transfer meeting will confirm the following:

* That the Continuing Care Agreement is clear and comprehensive enough to safeguard the living situation going forward
* The young person’s plan
* The lead professional and the roles and responsibilities of all those involved in supporting the young person’s plan
* The decision to request a Children’s Hearing, for those subject to CSO, recommending termination of the CSO.
* The date the case status should change in relation to young people subject to a Permanence Order

The next scheduled looked after review will confirm the transfer to Continuing Care and Reviews will be scheduled annually thereafter.

For those subject to a Compulsory Supervision Order, the placement status will change to Continuing Care on the day that the CSO is terminated.

For those subject to Section 25 the placement status will change on their 16th birthday.

For those subject to a Permanence Order, the date the placement will change will be confirmed at the Looked After Review.

The social worker must complete a change of placement/ statute form to record the actual date of the change in placement status.

If a young person wishes to remain in placement but the placement is not available to them beyond the looked after period, the social worker will:

* Confirm the reasons why the placement is not available and confirm that these cannot be overcome
* Ensure that the young person understands why the placement cannot continue
* Request a looked after review to confirm what other options are available which meet the young person’s assessed needs

For a small number of young people, the assessed needs may require an alternative care provision to be identified.

**Section 7 – Case Responsibility**

Whilst a young person remains on a Compulsory Supervision Order, the Children & Families social worker will be the lead professional.

Young people subject to Permanence Orders and Section 25 will have their Children and Families social worker as lead Professional until they move into Continuing Care. The date of change will be confirmed by the Looked After Review.

Within 6 weeks of the Looked After Review where Continuing Care was confirmed, the lead professional role will transfer to a worker in the Leaving Care Team (the young person will already be known to the Leaving Care Team and will have an allocated worker) and a case transfer meeting will take place with the young person.

If the young person has been trafficked or is seeking asylum, or there is a Criminal Justice Order or Adult Support and Protection Plan in place, the social worker will continue to be the lead professional with support from the Leaving Care Team.

Young people who meet the eligibility criteria for SW Adult Services will remain within the Children and Families Service up to 18 years of age, and transition into Adult Social Work Services directly where adult eligibility criteria is met. If the assessment to determine eligibility and the suitable pathway is ongoing beyond the young person’s 18th birthday, the lead professional role will not transfer from the Children and Families Service until the pathway is confirmed.

**Section 8 – Reviewing Continuing Care**

Legislation sets out different timescales for reviews of young people who are supported in Aftercare and in Continuing Care.

To ensure consistency, a young person’s Continuing Care placement will be reviewed annually for the duration of their placement, with Team Around the Young Person meetings as required in between.

A review should be held at the point when the placement is going to end.

Continuing Care Reviews should only take place when the young person is present.

Continuing Care Reviews will be:

* Held at least annually but more frequently if the plan and placement is complex
* Co-ordinated by the Leaving Care Team
* Chaired by a Child Care Review Coordinator
* Informed by a Form 4 and 4c and a pathways assessment
* Attended by all people considered relevant by the young person

The pathways assessment and plan will be completed by the allocated worker and should describe the following:

* Whether and how the Continuing Care Agreement is meeting the needs of the young person in relation to the 8 wellbeing indicators
* If a placement is at risk, a detailed contingency plan and what actions can be taken to safeguard the placement
* The young person’s views and involvement in the pathways assessment and review
* How independent skills are being developed and agreed outcomes are being met

Young people in Continuing Care should be at the centre of their Review. The lead professional must work with the young person to ensure the review meets their needs and wishes.

The Continuing Care Review will amend the Continuing Care Agreement and Plan to ensure that the young person is encouraged, enabled and empowered to develop their readiness and willingness to move onto independent living.

**Continuing Care allowances**

Young people over the age of 18 will be in a receipt of an income from work, training/ education or benefits. How much they contribute towards their care will depend on their individual circumstances and will be included within the Continuing Care Placement Agreement.

Changes in circumstances will form an update of the Young Person’s plan.

**Section 9 – Managing the end of Continuing Care placements**

S26 (a) (7) of the Children (Scotland) Act 1995 states that the duty to provide Continuing Care ceases when the young person reaches their 21st birthday or if:

* the young person leaves the accommodation of their own volition
* the accommodation ceases to be available, or
* the local authority considers that continuing to provide the care would significantly affect the welfare of the young person

A young person can choose to leave Continuing Care at any point. A Review should be held to help the young person move out in a planned way.

Once a young person has left their Continuing Care placement they are entitled to Aftercare support until their 26th birthday.

Where a young person leaves Continuing Care, a change of placement/ statute form will be submitted.

**Section 10 – Information sharing and consent**

At the point a young person moves into Continuing Care they will be asked to sign an information sharing consent form to reflect, for example, consent to share information with family members if they are part of the young person’s support or safety plan (page 2 of placement agreement).

Young people in Continuing Care continue to have the same rights with regard to their information being shared appropriately and proportionately. Local authorities and the allocated Social Worker will be kept informed of the young person’s placement. Whether information should be shared with others will be require the consent of the young person.

If information is regarding a risk of significant harm to the young person this must be shared.

**Section 11 – Disclosure Checks**

A young person over 16 years in Continuing Care may need to have a Disclosure check depending on their specific circumstances. For example where there are unrelated children in the same household. The Disclosure check is unlikely to reveal unknown information. In any case of uncertainty please seek advice from the Care Inspectorate

**Section 12 – Registration**

SSSC and the Care Inspectorate have agreed that there will be no registration changes to either residential services registered by the Care Inspectorate, or individual residential workers registered with SSSC. Care homes for children and young people and school care accommodation services will continue to be registered with the Care Inspectorate as residential childcare services. There will be no changes to the SSSC register for child care and residential school care. [SSSC Care Inspectorate (2017) Joint Statement](file:///%5C%5Cs-fk-fs11%5Csocialwork%5COperational%20Guidance%20for%20Continuing%20Care%5CSSSC%20%20Care%20Inspectorate%20%282017%29%20Joint%20Statement%20Continuing%20Care.pdf)

Falkirk Council Foster Carers transferring to supported carers status need to be dual registered. The Fostering Agency should be registered as an adult support service, and have in place a process for foster carers becoming dual registered. Refer to Supported Carer Scheme Procedures for more detail. [**Supported Carers Scheme Procedure**](file:///%5C%5Cs-fk-fs11%5Csocialwork%5COperational%20Guidance%20for%20Continuing%20Care%5CSupported%20Carers%20Scheme%20Procedure.docx) **(Currently under development)**

**Section 13 – Complaints**

A young person may make a complaint to the local authority about the service they receive or how any dispute has been handled. Complaints should be made through Falkirk Council’s complaints procedures [Complaints procedures](http://inside.falkirk.gov.uk/services/childrens/policies-circulars-procedures/complaints.aspx) / [Contact us to make a complaint](https://www.falkirk.gov.uk/contact-us/complaints/)

Young people with disabilities may require additional support to pursue a complaint.

Children’s Rights Service and Advocacy can support young people to express their view and or complain.

Children’s Rights Officer email address falkirkchildrens@quarriers.org.uk

Advocacy services email address Info@forthvalleyadvocacy.org.uk

Other organisations that may assist are the Care Inspectorate and The Children and Young People’s Commissioner Scotland.

Care Inspectorate website <http://carenews.careinspectorate.com/complaints-procedure/>

Children and Young People’s Commissioner Scotland website <http://www.cypcs.org.uk/rights>

**Section 14 – Death of a young person in Continuing Care**

Local authorities are required to report the death of a young person in a Continuing Care placement to the Scottish Ministers and Care Inspectorate under Section 26A (10) of the Children’s Hearing (Scotland) Act 1995 and s67 of the Children and Young People (Scotland) Act 2014.

**Section 15 – Useful documents considered for this guidance**

Part 11 (Continuing Care)

Staying Put (CELCIS): <https://www.gov.scot/publications/staying-put-scotland-providing-care-leavers-connectness-belonging/>

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