

Citizen Participation and Public Petitions Committee

17th Meeting, 2022 (Session 6), Wednesday
7 December 2022

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

Petitioner	Jasmin-Kasaya Pilling on behalf of Who Cares? Scotland
Petition summary	<p>Calling on the Scottish Parliament to urge the Scottish Government to:</p> <ul style="list-style-type: none">• Extend aftercare provision in Scotland to ‘previously looked after’ young people who left care before their 16th birthday, on the basis of individual need;• Extend continuing care throughout Care Experienced people’s lives, on the basis of individual need; and• Ensure Care Experienced people are able to enjoy lifelong rights and achieve equality with non-Care Experienced people. This includes ensuring that the UN Convention on the Rights of the Child and the findings of The Promise are fully implemented in Scotland.

Webpage <https://petitions.parliament.scot/petitions/PE1958>

Introduction

1. This is a new petition that was lodged on 6 August 2022.
2. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee’s consideration of the petition and can be found at **Annexe B**.

4. While not a formal requirement, petitioners have the option to collect signatures on their petition. On this occasion, the petitioner elected to collect this information. 392 signatures have been received.
5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered. A response has been received from the Scottish Government and is included at **Annexe C**.
6. A submission has been provided by the petitioner. This is included at **Annexe D**.

Action

The Committee is invited to consider what action it wishes to take on this petition.

Clerk to the Committee

Annexe A

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

Petitioner

Jasmin-Kasaya Pilling on behalf of Who Cares? Scotland

Date lodged

6 August 2022

Petition summary

Calling on 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;
- Extend continuing care throughout Care Experienced people’s lives, on the basis of individual need; and
- Ensure Care Experienced people are able to enjoy lifelong rights and achieve equality with non-Care Experienced people. This includes ensuring that the UN Convention on the Rights of the Child and the findings of The Promise are fully implemented in Scotland.

Previous action

We have previously contacted:

- Bill Kidd MSP and Carol Monaghan MP
- The previous Minister for Children and Young People, Maree Todd
- First Minister.

They and their teams directed me to The Promise or 1000 Voices project.

Background information

When we ensure everyone in our community has access to the support they need, if and when they need it, everyone benefits. Some Care Experienced people in Scotland today are finding services inaccessible

due to arbitrary criteria relating to their age and when they left care. They are often left to navigate difficult issues without support that many of their Care Experienced peers are entitled to. We can fix this by improving legislation to include all Care Experienced people who need support.

I have numerous examples of 'previously looked after' peers not being given access to the same support I have. My own support ended at the age of 24, but care hasn't left me, it has lifelong implications.

I have also gathered evidence from Who Cares? Scotland's advocacy, Helpline and reports, as well as CELSIS' Continuing Care report and Clan Child Law's blog.

Without support to access our rights, we can be left facing stormy waters with no lifeline.

Annexe B


 SPICe

 The Information Centre
 An t-Ionad Fiosrachaidh

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 after¹ 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 31st 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)

¹ Under the Children (Scotland) Act 1995, ‘looked after children’ are defined as those in the care of their local authority.

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 21st birthday).

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.

Nicole Beattie
Senior Researcher
[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

Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

Annexe C

Scottish Government submission of 6 October 2022

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

Thank you for your email of 9 August 2022 on behalf of the Citizen Participation and Public Petitions Committee seeking the Scottish Government's views on the following petition, lodged by Jasmin-Kasaya Pilling:

Calling on 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;*
- *Extend continuing care throughout Care Experienced people's lives, on the basis of individual need; and*
- *Ensure Care Experienced people are able to enjoy lifelong rights and achieve equality with non-Care Experienced people. This includes ensuring that the UN Convention on the Rights of the Child and the findings of The Promise are fully implemented in Scotland.*

As the Committee will be aware, the Scottish Government is committed to 'Keeping the Promise' as a matter of priority and ensuring that all young people are provided with person-centred support to enable positive transitions from care to more independent living.

Continuing care and aftercare policies are both key components of the measures introduced or expanded in the Children and Young People (Scotland) Act 2014 (the 2014 Act) to improve outcomes for young people leaving care. Continuing care and aftercare are both available to young people who are care leavers; which is legally defined as a young person who has been looked after on or after their sixteenth birthday but have now ceased to be looked after.

These policies enable and encourage care leavers to have a supported transition from care by staying in their care setting up to the age of 21, and receiving bespoke support from their local authority up to the age of 26 based on an assessment of individual need.

These policies are supplemented with a broader package of support available for young people with care experience such as; the Care Experience Student Bursary, support into education, training and employment through the Young Person's Guarantee, and exemption from Council Tax. We have also committed to investing £10 million per year towards introducing a Care Experience Grant to provide young people with care experience additional financial support.

In March of this year, we published the Scottish Government's Promise Implementation Plan which sets out how we are working across Government to Keep the Promise we have made to Scotland's children and young people who are care experienced.

This Plan sets out a number of key commitments that we are taking forward to Keep The Promise and help provide children and families with the strong foundations they need to thrive. This includes our commitment to work with partners to develop a universal and inclusive definition of care experience to include anyone who has been, or is currently, looked after at any stage in their life, no matter how short.

The Scottish Government is committed to the incorporation of the United Nations Convention on the Rights of the Child (UNCRC) into Scot's law, to the maximum extent possible. The UNCRC (Incorporation) (Scotland) Bill intends to deliver a proactive culture of everyday accountability for children's rights across public services in Scotland. It would require all Scotland's public authorities to take proactive steps to ensure the protection of children's rights in their decision-making and service delivery and make it unlawful for public authorities, including the Scottish Government, to act incompatibly with the UNCRC requirements as set out in the Bill. Children, young people and their representatives would have a new ability to use the courts to enforce their rights. In October 2021, the UK Supreme Court found certain provisions in the Bill to be outwith the legislative competence of the Scottish Parliament. We are currently working at pace to address this and it is our intention that a revised Bill will be submitted to Parliament.

We remain fully committed to improving the lives of our care experienced young people and ensuring that Scotland is the best place for children and young people to grow up. As we move forward with the

Promise Implementation Plan, we will continue to work with young people with lived experience, and the broader sector, to explore how we can ensure that people with experience of care are able to obtain the person-centred support they may require throughout their life.

I trust that the information above is helpful to the Committee.

Annexe D

Petitioner submission of 24 October 2022

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

The Scottish Government's response does not adequately address the concerns and recommendations in my petition. Please see my asks to the Committee at the end of this response.

Firstly, it does not address my concern that Care Experienced people who 'leave care' before their 16th birthday are not included in the legal definition of 'care leaver' and are therefore not eligible for continuing care and aftercare described by the Scottish Government in their response (see s.66 of Children and Young People (Scotland) Act 2014).

The [SPICe briefing](#) includes the Promise evidence 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.'

Who Cares? Scotland's advocacy highlights numerous examples of Care Experienced people not being able to access certain support due to:

- Not being formally looked after at the age of 16
- Having to push to be kept on Compulsory Supervision Orders (CSOs) when local authorities try to remove them against their wishes before the 16th birthday, including several examples of orders ceasing when someone is aged 15 years and 11 months.

When I left care at the age of 18, I was supported by my local authority and Barnardo's while attending college. I embraced my Care Experienced status, and this enabled me to receive counselling and support with education and housing. I obtained my degree with the support of my throughcare and aftercare team. This should be what every young person 'leaving care' can expect.

Instead, many Care Experienced friends from all placement types and some local authorities have been left to struggle.

For example, while at school, I received extensive support to obtain an apprenticeship. At college I had a support worker who I could turn to when I needed extra support. However, due to being on a CSO after the age of 16, I was entitled to more support despite my friend facing the same challenges.

When I was 19, I received my first home with support from social work, my local authority and my aftercare worker. A peer was in a placement that was breaking down. They were facing homelessness. I encouraged them to attend a housing options interview and state that they were Care Experienced to get emergency accommodation. They were told to gain proof from social work.

They received a letter, but it stated that they had been taken off their CSO 24 days before their 16th birthday. They were told that they couldn't receive priority support. They subsequently weren't able to sustain their higher education as they weren't eligible for funding, and had to drop out.

Secondly, the Scottish Government response doesn't address my second or third asks, to extend support throughout Care Experienced people's lives, on the basis of individual need; and to ensure Care Experienced people are able to enjoy lifelong rights and achieve equality with non-Care Experienced people.

Every young person needs flexible and unconditional support as they leave home, and a safety net when things go wrong. However, the Independent Care Review found that care experienced people are more than twice as likely to experience homelessness, one and a half times more likely to experience financial difficulties, over three times as likely to not have had a full-time job by the age of 26 (The Money, 2020; 10).

Scotland has an ambition to be the best place in the world to grow up, but the young people the state assumes parental responsibility for still face immense barriers to equality of opportunity and enter adulthood at a great disadvantage. This is what causes the overrepresentation of Care Experienced people in our prisons, and increased risk of mortality than our peers (SPS, 2021; Murray et al, 2020). But it is preventable, and the Parliament have a legal and moral responsibility to address this.

The government's response refers to young people but does not set out what work it is doing to ensure Care Experienced people of all ages can access the support they need throughout their lifetime.

I urge the Committee to call on the Scottish Government to extend s.66 to Care Experienced people who 'leave care' before their 16th birthday. The Committee should also acknowledge the need for lifelong support and rights for Care Experienced people, and consider how continuing care, the Promise and/or human rights legislation can strengthen protection in line with the inclusive definition set out by the Promise and the First Minister's personal commitment to Care Experienced people.

I would welcome the opportunity to give oral evidence to the Committee to discuss these issues further.