

# Continuing Care and the Welfare Assessment - Webinar recording from CELCIS

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Kenny McGhee, TCAC Lead, CELCIS

Julia Donnelly, Deputy Principal Solicitor, Clan Childlaw

Alison Jamieson, Team Manager, Children and young people, Care Inspectorate

Gaby Nolan, Projects Manager, Clan Childlaw

Okay, good afternoon, everybody. Thank you very much for joining our third in a series of three webinars this week. We hope you find it time well spent. Before we start, we're just going to introduce ourselves. My name is Kenny McGhee. The Throughcare and Aftercare Lead at CELCIS, at the University of Strathclyde.

My name is Julia Donnelly, and I am the Deputy Principal Solicitor at Clan Childlaw. Clan Childlaw is a law centre for children and young people in Scotland.

Hello, I'm Alison Jamieson. I'm a team manager with the children and young people's team in the Care Inspectorate. And as you know, we regulate registered care services.

Good afternoon, everyone. I'm Gabby Nolan. I'm project manager with Clan Childlaw. And I'm joining the webinar this afternoon just to help facilitate the session and in particular, to pass on to our presenters, all the questions and comments that you may have at the end. Thank you.

Okay, thank you very much. What we're going to do is we're each going to take a section to present to you so I'm going to start off this afternoon, I'll spend a bit of time talking about the context of the practice note, and also the input and continuing care, and why we think this is important. And then Julia, and then Allison O'Connor are going to come in and talk to their work elements. So anyway, despite recent changes in legislation our care leavers here in Scotland still too often face an accelerated and abrupt journey to adulthood, leaving care to young age and often lacking ongoing supports that many other young people take for granted. Ensuring the full and meaningful implementation and continuing care for all of our young people is critical to improving transitions and achieving healthy positive outcomes. And we know from our collective experience from all available data, that implementation has been slow, variable and inconsistent both across and within local authorities. So whilst there are several interrelated factors, one which recurs regularly relates to the consistent understanding and an applied interpretation of

the legislation and guidance. Practice note is intended to inform and support carers, practitioners, managers and decision makers, in consistently implementing the state policy and the continuing care legislation. The next slide, please. However, it's worth reminding ourselves as to why we think this is important. The issues affecting young people transitioning from care to adulthood are not new, and they're well documented both here in Scotland and across the globe. We know that positively delaying the age at which young people move on from care is critical to causing the outcomes gap across a range of metrics. Legislation and policy can only take us so far. Young people need to want to stay to be expected to stay, to see it as a positive option, and to have that sense of security and to be claimed. Implementing policy effectively, particularly for care leavers, however, is arguably the epitome of a wicked problem – one that is highly resistant to solution, and a system and some things with people often resistant to change, ideological philosophical agendas, beliefs, value systems, and real world agendas such as finance resources, organizational bureaucratic systems can act as barriers. However, having a clear understanding of the legislative and policy framework, and the code and spirit of its intentions is critical. Quite simply looked after young people can't benefit from interventions they don't experience and staying put and positively delaying the age at which they begin to move on, it's probably the single most critical factor in improvement life chances and outcomes.

Next slide please. Despite having the most enabling legislation and positive policy and guidance, Scotland still has the youngest age of leaving care in the UK, just over 17 years. So if we contrast that with the average age of leaving home for most people in Scotland, which is around 26 years old and rising, just taking the chronological age is a marker, then there's a significant difference, even before we take into account the issues which can impact on care experience young people often well into adulthood, they are frequently and inherently a disenfranchised group too often characterized by experiences of abuse, neglect, rejection, loss, poverty, educational interruption, and family disruption. And this can impede the negotiation of age appropriate developmental milestones, and the consolidation of a stable and healthy identity. Leaving care too early without the proper levels of support, and with all the pressures and responsibilities that come with instant adulthood is traumatic and damaging. Leaving care later matters, because leaving care too young is at odds with normative cultural and neurobiological development.

Next slide, please. So, as I suggested earlier, we're not alone in Scotland and, as the quote here suggests, it begs the question, however, as to why we remain tied to overly simplistic chronological triggers and thresholds, when they are at odds with everything else we know about the impact of childhood trauma, about young people's development, and about the notions of emerging adulthood. Adolescence generally is being drawn out as young people stay in school longer and have more difficulty in entering the job market, and therefore earning a stable income that would enable them to secure and sustain their own accommodation. Transition to adulthood can be a lengthy process, marked by

frequent reversals and contradictions that make young people both children and grownups at the same time. And too often leaving care remains seen as an event rather than a process with young people expected to undertake living on their own after a crash course in instrumental life skills. Moving out in this way has got little to do with readiness to assume an adult lifestyle. However, this is not just about skills, the importance of emotional readiness, resilience, and ongoing relational support is fundamental.

Next slide, please. And societally transition to adulthood is a longer process than it was a few decades ago. And this is where young people could become less autonomy, self-sufficient and independent than the previous generations. Young people now tend to live longer with their parents who tend to help with ongoing practical and financial support, covering their living expenses, for example, but also providing that emotional and relational support and security. And although the transition to adulthood for the general population has become longer, more complex, and personalized, care systems have barely taken these changes in account, remaining stuck with overly simplistic chronological and legislative triggers, and thresholds, which continue to accelerate young people from care to instant and, in many cases, damaging versions of adulthood.

Next slide, please. The Staying Put Scotland guidance, which was published in 2013, provides a philosophical underpinning and principles of good practice that informed part 11 continuing care of the 2014 Act. It calls on Staying Put to become the new norm or default position for young people for all young people who are looked after or after their sixteenth birthday with the end of formal care planning based on meeting the needs of individuals, rather than age or legal status.

Next slide, please. Part 11 effectively legislates for Staying Put and places duties on local authorities. It's transformative and its ambition, and arguably the most enabling legislative and policy framework in the UK, if not Europe. The aims or the guidance are to inform the legal and ethical responsibilities of local authorities towards looked after young people and care leavers. And this is not just about following the letter of the law to uphold rights and fulfill duties, as important as that is. It's also about fully embracing and implementing the core and spirit of this transformative legislation. And I'm going to hand you over to Julia, who's going to take you through some of the legislative elements in a bit more detail.

Thank you.

Thanks, Kenny. So I'm going to start by telling you how Clan become involved in work to realize care leavers' rights. In 2016 - so about a year after the law we're talking about today came into force, Clan had set up a pilot project to provide legal help to young people with housing problems in just one local authority area. And when we set it up, I thought we would mainly be working with young people in their early 20s, probably

experiencing problems in their first tenancies. But that was not what happened. And instead, we're mainly being asked to help children aged 16 to about 19. And we were in homelessness and in crisis rather than in tenancies. Over 90% of them were care experienced and most of them had left care recently, most would either have been able to stay looked after would have been eligible for continuing care, but it hadn't happened for them. And of course, there's a variety of complex individual reasons for that. But regardless of those reasons, all these children were facing homelessness, despite the fact that they'd been in the care of a local authority. And despite the fact that the law we're talking about here, was intended to make sure that they can stay put in safe and supported homes after the left care. We started asking around to that point and looking at care leavers' rights. And we heard from everyone we spoke to that young people didn't seem to be getting continuing care. At that point, we set up a Scotland wide care leavers' law service, dedicated to using law to help young people realize their rights when leaving care. So in my job we will tend to only be involved where there's a problem. But we do see a lot of good systems, corporate working and good practice, especially from frontline workers. Although we still also see the law not implemented and good outcomes for children being blocked despite that good practice. We continue to see resources appearing to the overriding consideration. I see young people experiencing disruptive moves out of care and continuing care. That's happened even during the pandemic, we see policies that can override individual rights and needs. And we're unfortunately working with looked after children and care leavers who are homeless. We now see more welfare assessments than we used to, but still very few. The reason that Clan wanted to contribute here is because we need everyone involved in supporting children as they prepare to leave care, to understand the right to continuing care and understand the duty to provide it so that we can work together to make sure that the children who need continuing care, get continuing care. I'm going to talk briefly about what the law says about young people's right to continue and care about the duty of local authorities to provide it and about the essential role of welfare assessment and fulfilling that duty. This is a very brief run through, so the detail is in the note itself. And we've also put the law we are referring to here into a handout, which is available separately. So we begin with the 2014 Act, which puts a new section, section 26. A into the 1995 Act. And that creates a duty on the local authority to provide continuing care and creates a duty to carry out a welfare assessment. A child is a person under 18. And we have to remember that the welfare assessment has to take place before the child leaves care. That is when they're under 18. And we have to remember that this is an assessment of a child's welfare, it is not a calculation of the resources needed to support young adults. A child who leaves care before they turn 16 is not eligible for continuing care. This is really important that people understand this because we see so many children and young people who agree to leave care without a proper understanding that will remove their right to continuing care, and their right to the support of aftercare. Generally, when we see these young people they are at a significant disadvantage if they need support after they're 16. This is avoidable if everyone who supports young people understands this rule

The main feature of Section 26 A Is this: where the child leaves care after their 16th birthday. The local authority must provide continuing care. That is, the default position is continuing care. The child doesn't have to request continuing care or request a welfare assessment. The local authority has to assess continuing care for every child who will leave care after they are 16.

Can we have the next slide? Thanks. So there are three reasons for a local authority to not provide continuing care: if a child leaves care from secure accommodation, if the carer is unable or unwilling to continue to provide the placement, or what we are talking about today, which is if the local authority's welfare assessment shows providing continuing care would significantly adversely affect the welfare of the child. So again, the default position is continuing care unless a welfare assessment shows that continuing care would be detrimental to the child's welfare. It's confirmed by the guidance, which is on slide three. So next slide, please.

The guidance says the only reason for failing to provide continuing care is that to do so we significantly adversely affect the welfare of the person. And it also says that this has to be evidenced in a welfare assessment. And that takes us to the next slide, to articles four and seven of The Continuing Care Scotland Order 2015, which is the legal authority for welfare assessments being mandatory regulations rather than the act. Article four says, as in terms of Section 26A, 5C of the 1995 Act, a local authority must carry out a welfare assessment. They then tell us the rules about welfare assessments. Specifically, they must be carried out at any point before the child leaves care. So that means a welfare assessment can be part of another planning process pathways planning or the child's plan, as long as the rules for welfare assessment are followed, and as long as a separate decision on continuing care is made. The regulations also say welfare assessments must be carried out for every child who will leave care after they're 16. There's something we can conclude from what the regulations say, which is a welfare assessment has been carried out whether or not continuing care for assessment is requested. There's no need to request these things. The regulations say that the welfare assessment has to be carried out with no conditions or exceptions. And I think the welfare assessment has to be carried out even when a child says they don't want continuing care. We shall come onto that in a little bit more detail.

So can we have the next slide, please. So this is article seven of the regulations, which gives a lot of detail about the regulations and rules for carrying out welfare assessment. Among them, and probably one of the highlights are that the local authority must regard the views of the child record their views and enable them to participate. We must take into account any views they obtain from other people in the child's life, that they or the child consider to be important. They have to ensure a written record is prepared of the information – views, deliberations, meetings - the whole thing has to be recorded. You

have to provide the child with a written record of the results of the welfare assessment and ensure that it's explained to them. They have to consider each of the matters referred to in the schedule, which we'll come on to. The key thing here is that there has to be a decision about continuing care on the basis of the welfare assessment. So the welfare assessment is the reason for the decision. And both those things have to be in writing. And you can see from this from just the sheer number of regulations. This is a process that should take time and has to involve everyone who supports the child. These things, the regulations say these things don't have to be done when it is not reasonably practicable to do so. So that tells us that even when a child is not engaging or giving their views, a welfare assessment still has to be done as far as is practical.

So if the child has made an inform decision that they don't want continuing care, that's going to affect the decision. But a child not engaging, is not a valid reason not to do a welfare assessment or to make a recorded decision on continuing care.

So the next slide is the schedule. I'm not going to read everything on this slide. But these are the things that the regulations say must legally be considered by the local authority in carrying out a welfare assessment. So this is intended as a comprehensive assessment of how continuing care can provide the support and accommodation the child needs, and that they will need into young adulthood. So again, it's something that is intended to take time, it could be a comparison of the effect of continuing care on the child's welfare compared to the effect on the child's welfare of a move into more independent or temporary accommodation at this point.

Can we have the next slide? Thank you. So there are such a variety of requests and needs when children leave care and local authorities have to be resourceful to meet their duties. So it's not surprising that the lines between care, continuing care, after care and sometimes homelessness get blurred. But we have to avoid problems of resource and operational problems impacting on children's welfare. The law defines continuing care as staying in the same place with the same support until the person is 21. So that explains what continuing care is and there are a few things from that that continuing care is not. It is not staying in care. And young people should be clear that the restrictions they may perceive in their lives of being in care are not going to be present in continuing care, it is a different type of placement, even if it isn't the same place. Continuing care is not staying in the same place, but with a different level of support. We've been asked this on previous webinars so I should clarify this point. The law doesn't say that the child receives exactly the same level of support that they did in care all the way through until they're 21 or regardless of changes on their needs. Welfare assessment must be ongoing throughout continuing care and must be reviewed regularly and when there's any change. And support can change at any point during the placement backed up by the welfare assessment. It is not a move to living in a tenancy or accommodation or the first step to living independently with aftercare. It is not a managed move on, it is staying where you

are. And finally continuing care, well two things – continuing care is not conditional on resource or engagement or compliance. So what we see a lot is the young person has to be in education, or they can get continuing care until they reach a certain age. The law says continuing care must be provided until the young person is 21 unless either they decide to move on for themselves, which would be into aftercare or unless a welfare assessment shows there is an accepted better alternative to continuing care for them.

Continuing care is for all young people. So young people with additional support needs who might require adult services in adulthood should not be missing out on continuing care, and continuing care should come first, before the transfer to adult services. So I'm going to finish up by saying this is a very quick glance at the law, the duty and the child's rights. If you would like to know more about these issues, however you encounter them in your work, or if you think more information or in-depth training from Clan or from the three of us will be useful on this then please let us know.

And Allison is now going to take over and tell us about the Care Inspectorate's perspective.

Thank you, Julia. I'm going to talk about the role of the Care Inspectorate in terms of supporting continued care and improvement, particularly from a registration and inspection point of view.

So just building on what Kenny was saying about research and Julia about her experience of working with young people. We know that young people who remain in secure placements and are settled and have established meaningful relationships with caregivers have more chances of better outcomes throughout their adult life. So the Care Inspectorate welcomed the legislation in relation to continuing care. As a corporate parent, we wanted to ensure that our regulatory practices did not create barriers for continuing care to be provided seamlessly. So we reviewed our processes, and we made a number of changes. And this is what we did in registration. Previously care homes for young people registered with an upper age limit, usually based on what the provider had requested at the time of registration. And that was usually 16 or 18. So if people wanted to remain beyond that age, the provider needed to apply for a variation to us to change the conditions. To avoid this and to make care seamless from a registration point of view. We've removed the upper age limits for new services registering and have encouraged existing services to apply to remove these limits. For fostering services, continuing care was less straightforward, because the fostering regulations remain unchanged, meaning that a foster placement cannot legally continue beyond the age of 18. The solution to this was to ask agencies to register an adult placement service linked to their fostering service. This meant that foster carers could then be approved as foster carers and adult placement carers, to enable young people to remain. There wasn't an ideal solution, and it has had some challenges in terms of carer status. And sometimes there's been issues

around fees, for example, but that's what the legislation is and we needed to find a way around that. There's no registration or continuation fee for the adult placement service linked to fostering. And we inspect both services alongside each other in order to remove some regulatory burden on the provider. The Care Inspectorate also produced admission guidance for providers, because we know that robust assessment of young people's needs, planning their support and getting the right staff with the right skills prior to admission is crucial to ensuring the success of a placement, minimizing the risk of breakdown and reducing placement moves and that supports continuing care.

Next slide, please. Move moving on to inspection. With the introduction of the health and social care standards, new guidance and practice, the Care Inspectorate has now produced new frameworks for all service types. Those of you working alongside care homes for young people will be familiar with our updated framework. And we have just completed our consultation on the family based care framework. And we hope to test that from April. So that includes foster agencies. I've picked out a few themes from the quality indicators in the framework for care homes that I think support continuing care. Meaningful and secure relationships where young people feel loved, and experienced and outcomes are crucial to young people feeling able to remain in their children's house. To achieve this we need skilled, well trained and experienced staff who can sustain relationships with young people, meet their often complex needs, and provide high quality care that results in good outcomes. We need staff to empower young people by ensuring that they are aware of their legal rights, including the right to continue in care. And we need to be ambitious for our young people helping and believing that they can realize their potential. We know that when services work well together with the right support being identified for young people and in place and regularly reviewed, we see improved outcomes.

Next slide please. So this is a quote taken directly from the framework that I think illustrates what we are looking for in terms of evidence that services are proactive in supporting community care. Sorry, continuing care. Children and young people benefit from well managed positive and individualized pathways and transitions. They are well informed about continuing care and related rights. They are encouraged and enabled to remain in their care setting for as long as possible, and until they wish and are ready to move on.

Next slide please. I thought I would share some of our findings from inspection, some of which prompted us to be part of the development of the welfare assessment practice note. We see pockets of some good practice and some very good practice in relation to continuing care. We see examples of young people remaining in placement beyond the age of 17 and 18, where they are being supported in work, college and university and manage the challenge that young people experience in young adult life. But practice and outcomes are inconsistent across sector. We are still seeing high number of placement



moves for some young people due to placements not being able to meet individual needs. So young people don't have the opportunity to settle and develop the relationships they need to address past experience and trauma. And in some services we're seeing a higher level of staff turnover. So again, there's a lack of opportunity for young people to build those relationships that they need to feel secure and be encouraged to remain in placement. We know that many young people are not aware of their right to continue in care. And if they are it's often close to the 16th birthday and they haven't had the opportunity to consider options early enough. Often young people are not well informed about advocacy, and what they can receive and how to access the service. During the early stages of the pandemic, we became quite concerned about examples of young people moving into Throughcare and Aftercare at short notice, with poor planning, and some poor outcomes as a result. And that for them was at a time of high anxiety.

Next slide, please. So, in our role in ongoing regulation, we like other agencies have had to adapt our approaches and methodology during the pandemic, but we are inspecting services, we will continue to highlight good practice in relation to continue here. And the practice note will be a guide for services in that.

The independent sector doesn't have a legal responsibility for welfare assessments that lies with the local authority. It has a responsibility to ensure their services are enabling continuing care, promoting children's rights and care planning, including a discussion about appropriate pathways and transitions at the right time. The Care Inspectorate works for young inspection volunteers who assist us with our inspections. And they are currently involved in work with CELCIS and Clan Childlaw to produce some materials for looked after children about the right to continue in care. And we're hoping that we can then take them out on inspection and improve the knowledge within young people of that right. And finally, our strategic inspectors are also involved in raising awareness of the practice note, with their links with local authorities and partnerships.

To pass you back to Gabby, I think she is collating some questions?

Thank you, Alison.

We've got some questions and comments that have come through. So I'll just get started with those if that's okay. And the first question, Kenny, I'll ask you to respond.

It comes from our audience asking, does the leaving home age vary between socio economic groups?

That's a really good question. And off the top of my head, I would not want to make a stab at an answer. I think what we know is across the general population, the age of leaving home, across the general population has risen. I don't know what the breakdown

would be in and amongst different socio economic groups. I would hesitate to make a guess on that one. What we do know, sorry, is that in Scotland it is 26 and rising. In other European countries, for example, Italy, it's round about 30. It does differ in terms of young men and young women, young men still tend to be at home longer than young women. And so there is some breakdown of knowledge there.

Our next question comes from Alden Sixsmith, in our audience and Juliet, I think this might sit with yourself. So I'm saying I thought if a carer did not wish to continue a placement, the local authority has responsibility to offer a similar placement if the young person wishes?

Yes, is the answer. So, what the law says is that you have to do a welfare assessment and consider continuing care. It says nothing about if the carer is unable or unwilling to provide the placement that is a valid reason not to provide continuing care, it does not put any further duty on local authority in terms of continuing care, but will you jump to then is Aftercare which has its own planning process, its own assessment process, and its own regulations and laws about what has to be done for young people. So the guidance is very clear that if it is not possible for the placement to continue because the carer is unwilling or unable to provide it, then the expectation is that the local authority will through Aftercare provide as close as possible to the level of support and accommodation and the type of accommodation the young person was receiving before they left care as they can, but providing it through Aftercare and not through continuing care. And that includes things like links to continuing relationships with carers, and various other things but that would all be done through Aftercare.

Julia, I think the next question may sit with yourself as well. But please do and other panel members come in, if you feel that you can contribute to. So from Craig Ross in our audience, can I assume a pathways assessment constitutes a welfare assessment?

No. So you can do a welfare assessment as part of a pathways plan, we see that quite a lot. And we weren't sure that first if they had to be two completely separate processes. But we think now that you can do a welfare assessment and include it as part of the pathways plan for welfare assessment, continuing care, the pathways plan is ready to kick in at the point when the young person leaves continuing care, so the process is all sort of smooth without interruption.

Kenny can tell you more about that. But legally with welfare assessment, you have to consider the matters that the law says have to be considered as part of it. You have to reach a decision about continuing care, you have to provide the records. So you have to follow the regulations of the welfare assessment. But there is no reason that you can't include that in the pathways planning process or produce the documentation as part of the pathways planning process, though they're definitely not the same thing. The other

crucial and confusing thing is that there is a very different time scale for pathways planning to the time scale for welfare assessment. So welfare assessment has to be completed before the young person leaves care. With pathways planning, much more time is allowed for assessment, producing a plan and implementing a plan. I think if you watch out for those things, you can do one process that ticks every box as you come to it, if you see what I mean. But you have to remember there are separate regulations for each thing – it's not the easiest thing in the world, Kenny might be able to add to that.

Our understanding is, and we've pretty much been working to this consistently across the sector, with our advice and back by the government is there is there's no need for a separate welfare assessment, it doesn't need to be a standalone, but it must be explicitly referenced within, for example, an integrated children's service plan, a looked after plan or a pathways plan, and we know that local authorities quite often will use slightly different formats for that. But it must be explicitly referenced within whatever existing format you use. And, our notion would be that any good quality, holistic, person centered planning process would properly encapsulate all the areas which are outlined in a welfare assessment anyway, but they just must be explicitly addressed with reference to the continued care aspect of it.

Thank you.

Our next question comes from Lisa McMahan, in our audience, and again, Julia it maybe sits with yourself in terms of some clarity around the law. What provides more security for a young person; signing section 25 papers at age 16 or being in continuing care?

Okay, this is quite a complicated question. Section 25 - the legal duty that a local authority have to look after a child whose family are unable to provide them with accommodation and care. So if you are looked after in terms of Section 25 whether that's by an agreement or something the young person has signed. If the local authority accept the duty to look after a young person under Section 25 then that young person is a looked after young person. They are in care and continuing care would only kick in at the point when this section 25 stopped. What we generally say is that the best outcome for a young person is to stay looked after assuming that's what they want the best outcome for them is to stay looked after for as long as possible. And so 18 or beyond it is at the local authority's discretion to do that. So I think the section 25 is preferable. It is better than continuing care. Continuing care comes in once section 25 is no longer available, or being provided. But that is speaking, generally, not speaking about a young person's specific circumstances, because you need details to advise on that. Again, others may be able to come in and clarify.

I think as Julia is saying, being looked after on or after your 16th birthday, is the eligibility trigger for continuing care. And whether a young person is subject to statutory measures through a Children's Hearing, subject to a permanence order, or subject to Section 25, they're all equally eligible under the law in terms of continuing care. So, you know, there is, as Julia is saying, there is a guidance, which actually goes back to 1995 legislation, about the benefits of sustaining and maintaining young people subject to compulsory measures of care up until the 18th birthday, unless it is, against their benefit to do that. So we would also advise that you use the law proactively, you use a law as a protection for young people.

Next question, again, Julia may be with yourself, or Kenny can come on this too, is the welfare assessment a standard document with a blank template, each local authority can develop

There isn't a form that I am aware of, there isn't a statutory form or a template of regulations anywhere and given the wide ranging nature of the welfare assessment, I would say that it is more of a process than a form that you could just fill in. And certainly the references to the records, the legal requirements to keep keeping the record and provide it, refers to every single part of the process, every meeting, every determination - so discussions about the decision, all the information and the evidence is being looked at and making the decision, all has to be part of the record, and has to be available and provided on request. So I would say that that goes against there being just a form, but very much goes to local authorities being able to develop their own processes and way of recording and of making sure that they capture everything.

Maybe just I'll go a little bit further down with their questions, because there's another question from Susan Cassidy that may relate to that one. Can another report - so one used for LAC reviews, for example, be used as long as it covers the areas highlighted in the welfare assessment?

Again, I think this is the same answer we gave around pathways plans. So the answer is yes, as long as your welfare assessment complies with the regulations, as long as you make a distinct decision about continuing care off the basis of the welfare assessment, and you record it and you clearly communicate that to the young person, then I think you can do this as part of any other process, if you see what I mean. But you need to be aware that there are regulations that dictate the things that need to be considered, the processes that need to be followed and the timescales.

I don't know if Kenny's got stuff to add on as well.  
No.

Thank you. The next question is a general question around the resources. So will the information for young people about continuing care be available in multiple languages? It is just a question around accessibility of the resources and information that were produced.

Do you want to answer that Alison?

Oh, yeah, and I think that's a really helpful point. And I think it's something that we really do need to consider when we're putting it together. So we've just started this process of developing the resources and materials for young people. But I think that's absolutely right, that we need to ensure that that's accessible to all young people, so that they understand what their legal rights are. And that means making it available in other languages. So we need to build that into the project.

Thank you, Alison. This next question, please all panel members feel free to contribute to this. So this is from Laura in our audience, it is interesting that if carers are not able to continue to offer continuing care, then this does not need to be provided. I have worked on the premise that we would need to provide an alternative similar placement.

I'll come in on that, if carers are unable and the 'carers' will also include caring agencies, so it's not just foster carers, it would also include agencies, for example, residential group care, if they're unable, or unwilling, and sometimes, you know, for obvious reasons, if a carer becomes unwell or whatever, then they may choose or have to choose not to be able to continue with that. The local authority are then required to try and identify the nearest alternative equivalent of that, and whilst that's never always going to be an exact like-for-like because each family situation or each care situation is unique, the idea in the drafting of the legislation, as I remember it from much of the consultation, was to ensure that young people didn't move from fairly intensive well supported stable placements - for example, a very solid family environment with carers - into an adult hostel or homeless or Temp Furnished. It was to try and avoid that really drastic shift. So for example, we have heard of young people who have been unable to remain with carers and the local authority have identified and supported carers under the adult supported carer scheme, which provides another family type environment, for example. So the idea is to prevent young people having a fairly drastic step change in the levels or care that they've been getting. And that they need.

Just to add to that legally, I think that if the carer is unable or unwilling to end the placement that ends the duty to provide continuing care, but the second the duty to provide continuing care ends, the duty to provide aftercare kicks in and that is just as legal and just as strong a duty. So I think you're still required to do that but by a different bit of legislation.

Thank you Julia, the next question from Pauline Hughes, I think sits with yourself. So if a young person is placed in supported accommodation, after the age of 16, but not subject to a CSO or PRO, should they be seen as looked after and accommodated and therefore entitled to continuing care and aftercare support?

That is complicated. When we get young people in a situation which happens a lot when a young person will present, they won't know understandably, and quite often the people supporting don't know or are not clear about the basis on which the accommodation is being provided. So, if it has been provided, because the local authority has a section 25 duty, or it's a CSO or a PRO then they are looked after. That means that when the time comes for them to leave care, there has to be a welfare assessment on that accommodation. So if it is supported accommodation, it is the accommodation and the support they are getting and the welfare assessment is exactly the same - is it going to be significantly detrimental to that young person to stay on in that accommodation? And there are other considerations around the carers ability to continue to provide the support at that point as well. So the short answer is yes. If we come into accommodation, because we are looked after child, then you're eligible for continuing care, which is the same accommodation and support. And you then have to assess whether it will work for them and assess whether that's available. So I think that answers that, generally anyway.

Thank you. Our next question. Again, Julia, may come to you. I think there's quite a number of questions just around clarifying law and legislation and the practice. But certainly, Alison and Kenny feel that they have something to contribute to this in terms of practice. So from Jeff in our audience, how do you address that different local authority legal departments have interpreted the legal duties regarding continuing care in very different ways, for example, a local authority who defines their existing supported lodging scheme as meeting their obligations to continue care.

All I can tell you there is, it's absolutely up to each local authority legal department, to look at the law and reach conclusions about what that local authority has to do to comply with the law and whether it does or doesn't comply. If we are working with a child, or young person, we consider that what is being provided to them doesn't meet the legal definition, then we will enter a discussion with the local authority and with the legal team or a lawyer for the local authority, about how we interpret the law as opposed to how they interpret the law. So there is a negotiation there, quite often we will get an opinion from advocates, seeking to clarify how the law should be interpreted and they are able to do that as well. And finally, if we still can't agree on who is right about how the law should be interpreted we can contest it in court. And so I think the short answer is probably that, because this is still a relatively new law, a lot of these things, when it comes to interpretation there are certain things are pretty clear, like everybody who's looked up to 16, is eligible for continuing care. But there are other things which are a question of interpretation. It will be clarified through legal challenge and through these discussions

with legal teams and be tested in that way through the courts if we really reach a point where nobody else can interpret it.

I realise that is a long, very legal process based answers so maybe Alison and Kenny want to talk a bit more about how local authorities come up with appropriate practice, because I can only answer from this point of view on that one.

The law provides a framework and Julia you will know that, it provides a framework from which to make decisions, and it's a bounded, as we know. However, if we apply and operate our childcare policy for looked after young people and supporting their journeys to adulthood, strictly through the letter of the law, then you will have failed with this policy and this legislation. This is permissive, enabling legislation, which is there to support young people remaining in positive care placements into adulthood. That is the primary driving factor in this. And we know that people can nitpick over fine points of the law. What this really needs to have alongside it and which it does is we would argue, is universal evidence – 'universal' is probably a bit of a stretch, but we've got worldwide empirical evidence about what improves young people's outcomes into adulthood. And we've got very enabling principles of practice and a philosophy of practice, which we which we need to follow to me both of these things come together. If we want to close the outcomes gap for our looked after young people, then we need to be applying the principles and philosophy of Staying Put and a much longer and more supportive journey into adulthood rather than applying through a strict legal definition. I mean that's what we need to work at and what we want to find when we're working with local authorities, that they can take a very much a child centered, person centered approach to supporting young people, rather than a very narrow legalistic definition.

Thank you. Our next question and comment comes from Gillian. I think maybe all the panel members might want to contribute to this. Allison, perhaps I'll ask you to respond first if that's okay. This is all very complex, Gillian says, and I'm reminded of the promise statement, that guidance needs to be decluttered. I agree, but struggle to imagine how and what is the right balance to still ensure enough guidance. Do the panel have any insights about what may work?

Yeah, gosh, I was just talking today about somethings that we were putting out about something else that is unrelated. But it's that feeling that we are bombarding services, there's so much guidance, that it can actually become confusing or quite restrictive, in terms of being innovative as well. So, yes.

Some help with this, guys?

It comes back. I mean, the guidance in the legislation - what we know from public policy implementation, whether it's childcare, or anything else, that guidance and legislation will only take us so far. And sometimes it can muddy the waters, it can become complex, it can get bogged down in legalese. And we need to come at it from a culture and practice point of view. What do we want for our young people that we're looking after, on behalf of the state, who are coming into alternative care, what do we want for them? Rather than being tied up with the guidance, of course, we need parameters. We need safeguards for staff, we need safeguards for young people. But we need to think about the culture and practice. And that's what The Promise talks about, I think I would agree that we need to declutter the landscape. And we might have a view but having the 2014 Act and the guidance has been constructed and worded. We will learn from that as we as we go forward. We think we need to simplify a bit. I think most of us would agree with that. What is the intention of this in the first place?

I would agree. Legally the guidance is very, very detailed, but of limited help. I think the law is very clear the legal duty is very clear. And I think if you stick to that, and then concentrate on, as Kenny says child centered practice to meet the duty, which is pretty straightforward, really, and if you go to the regulations for the rules on what does and doesn't need to be included, because that's the legal requirement, then the guidance is a lot about interpretation and is a lot about the interpretation before the Act was really operating. So I think it definitely needs to be decluttered. That's a good word for it. And I also think the one of the things that one of the things I don't like so much about the guidance is it makes the law seem more complicated is because actually, the rights and the duty I think are very, very straightforward and can be illustrated almost in a straight line. If you're 16 or over and you are looked after and accommodated, you are entitled to continuing care. And, you know, that's it, really. And as Kenny says, if you're concerned about the welfare of a child and you've got child centered practice, then the rest of it will fall into place around that without you having to constantly cross check guidance that may or may not be helpful.

Thank you very much, everyone. Actually, we're at the end of our webinar session now. We certainly have a lot of other questions and comments that our audience have passed on, so thank you very much for that. We won't lose any of those will collate and gather all the questions and comments. And the panel will respond to those directly. But thank you so much to everyone for your contribution and participation with the questions and comments. It's made the discussion really interesting. And it just leaves me to thank all of our panel members. And thank everybody for joining us this afternoon.