
To: Social Work, Health and Well-Being Policy Board

On: 13 January 2015

Report by: Director of Social Work

Heading: Children and Young People (Scotland) Act 2014

1. Summary

- 1.1. This report provides information on the Children and Young People (Scotland) Act 2014 which received Royal Assent on 27 March 2014. The Children and Young People (Scotland) Act 2014 covers a number of issues including the rights of children and young people, getting it right for every child (including the requirement for a Named Person and a single planning process for children who require it), defining well being and increasing early learning and education provision. The 2014 Act also put in place significant new legislative duties in respect of looked after children.
- 1.2. The focus of this report is on three areas of the 2014 Act which impact directly on looked after children. The first area of focus is on Corporate Parenting, the second on aftercare and the third on continuing care.
- 1.3. A definition of Corporate Parenting and the identification of bodies considered to be corporate parents is contained in the 2014 Act. The 2014 Act sets out new duties for local authorities in relation to the provision of aftercare support for care leavers and introduced the concept of continuing care. The implications of the new duties and responsibilities for aftercare and continuing care on local authorities are considered in this report.
- 1.4. The Scottish Government published draft Orders relating to the regulations for Corporate Parenting, Aftercare and Continuing Care in November 2014. Copies of the draft Orders are attached at appendix 1, 2 and 3 respectively. The Scottish Government was seeking responses to the consultation on the draft secondary legislation on these Orders by 29 December 2014. The Board is asked to approve the draft response attached at appendix 4. It is noted that the financial impact of the draft Orders is not clear at this time.

- 1.5. The Scottish Government launched two consultation documents in December 2014, the first guidance on corporate parenting and the second guidance on aftercare and continuing care. The launch of the consultation means that the draft response is not available for the Board to consider in this cycle of meetings. The draft response will be presented to the next meeting of the Board on 3 March 2015.
 - 1.6. It has not been possible to identify fully the implications for local authorities on the new duties around aftercare and continuing care at this time. It is probable that the financial consequence in terms of the assessment of need and provision of aftercare services could result in significant new demands on Renfrewshire social work. It is also likely that the introduction of continuing care could also have significant financial implications for Renfrewshire from 2017/18.
-

2. Recommendations

- 2.1. The Social Work, Health and Well-being Policy Board is asked to:
 - [a] note the publication of the draft Orders relating to the regulations for Corporate Parenting, Aftercare and Continuing Care attached at appendices 1, 2 and 3;
 - [b] approve the draft response to the consultation on the draft secondary legislation attached at appendix 4;
 - [c] note the launch of the consultation on the guidance on corporate parenting and the guidance on aftercare and continuing care; and
 - [d] note that a draft response to the two guidance documents will be presented to the Board on 3 March 2015 for consideration and approval.
-

3. Background

- 3.1. The Children and Young People (Scotland) Act 2014 was passed by the Scottish Parliament on 19 February 2014 and received Royal Assent on 27 March 2014. The Act covers a range of issues including the rights of children and young people, the provision of early learning and child care, embedding the Getting it Right for Every Child approach and services and support for looked after children.
- 3.2. At the end of November 2014 the Scottish Government published draft Ministerial Orders for Corporate Parenting, Aftercare and Continuing Care in November 2014. The Ministerial Orders set out the parameters of the legislation in the three areas noted above. A consultation on the draft secondary legislation for parts 9, 10 and 11 of the Children and Young People Act has been open since 27 November and a draft response provided by the closing date of 29 December 2014. A copy of the response is attached at 4.

Corporate Parenting

- 3.3. Part 9 of the Children and Young People (Scotland) Act 2014 deals with the issue of Corporate Parenting. This part of the Act puts the concept and policy of corporate parenting onto a statutory basis. Part 9 of the Act sets out a

framework of the duties and responsibilities of a public body identified as a corporate parent and comes into force in April 2015.

- 3.4. Local government services have worked with the concept of corporate parent for some time however the 2014 Act extends the range of public bodies now considered to be corporate parents. The Scottish Government commissioned the Centre for Excellence for Looked After Children in Scotland to develop the statutory guidance. The 2014 Act requires the Scottish Government to consult corporate parents on the guidance before it is issued.
- 3.5. The Scottish Government launched a formal consultation on the draft statutory guidance in December 2014. The Scottish Government has indicated that responses should be submitted by 2 March 2015. Given the timescale of the launch it has not been possible to present a draft response to this cycle of the Board. It is proposed that a draft response will be submitted to the next meeting of the Board on 3 March 2015.
- 3.6. The responsibilities in relation to corporate parenting come into effect in April 2015. The 2014 Act requires public bodies to discharge their corporate parenting responsibilities to all looked after children. For young people who were looked after on their 16th birthday the corporate parenting responsibilities extend up to and including the age of 26.
- 3.7. Corporate parents are required to prepare, publish and review a corporate parenting plan. The 2014 Act encourages that corporate parents work in a collaborative manner to discharge this area of responsibility.
- 3.8. The duties of the corporate parent should be discharged in a manner which is consistent with the purpose and function of the individual public body. All corporate parents are expected to discharge the following duties:
 - be alert to matters which adversely affect the wellbeing of looked after children and care leavers;
 - assess the needs of those children and young people for the services and support they provide;
 - promote the interests of those children and young people;
 - seek to provide opportunities which will promote the wellbeing of looked after children and care leavers; and
 - take action to help children and young people access such opportunities and make use of the services and support provided.
- 3.9. A corporate parenting working group is in place in Renfrewshire. This group has developed an action plan to assist the range of partners in the area discharge their corporate parenting responsibilities.
- 3.10. The 2014 Act outlined the range of young people for whom corporate parents have duties and responsibilities towards. Following review the Scottish Government has decided to extend the range of young people to whom corporate parents have responsibility. The mechanism for doing this is via the draft Ministerial Order. The draft Order for corporate parents is attached at appendix 1.
- 3.11. The draft Order extends the responsibility of corporate parents to include young people between the ages of 16 to 26 who are no longer looked after but who were previously looked after between the ages of 11 and 16 for an

aggregated period of no less than two years. The Scottish Government has indicated that they are seeking views on this extension.

- 3.12. In terms of supporting young people previously looked after the proposed extension is appropriate. Given the principle contained in the Children (Scotland) Act 1995 that a young person is only placed on a statutory order when it is better to do so than not then the proposed extension appears appropriate. There is a lack of clarity over the financial impact of the draft Order. It will be important to highlight the potential financial impact in any response to the Scottish Government.

Aftercare

- 3.13. Part 10 of the 2014 Act included new rights for looked after children and care leavers and new duties and responsibilities for public bodies. The new rights, duties and responsibilities come into force in April 2015. Part 10 of the 2014 Act reflects the philosophy of care set out in the Scottish Government's "Staying Put Scotland" guidance of October 2013 which stresses the importance of positively delaying the age young people leave care. This guidance also places a duty on corporate parents to encourage young people to remain in a safe and supported environment for as long as they need to.
- 3.14. The present definition for "Aftercare" is contained in the Children (Scotland) Act 1995. Aftercare is defined as "advice, guidance and assistance". Aftercare can include helping a young person secure accommodation, access education or training, access employment and the provision of financial support.
- 3.15. The 2014 Act extends the age for eligibility for aftercare services from 21 to 26. This change is significant as it extends the population eligible for aftercare considerably. Eligible young people will have a right to have an assessment of their needs and if any assessed need cannot be met by other means the local authority must provide advice and guidance on how the needs can be met.
- 3.16. The implications locally are that young people who would previously ceased to be entitled to after care because they reached the age of 21 will continue to be entitled. In addition those young people aged between 21 and 26 who were previously looked after can reapply for aftercare support. It is not possible at this stage to quantify the number of young people in Renfrewshire who will wish to receive aftercare beyond the age of 21. The Scottish Government estimates a potential doubling of the population between the ages of 19 and 26 seeking aftercare services in 2015/16.
- 3.17. The entitlement to aftercare services (in relation to advice and guidance) is also extended to children and young people looked after at home or in kinship care. This could again have a significant impact on services locally if all of those entitled seek an assessment and have needs identified.
- 3.18. The draft Order extends the right to aftercare to young people who are no longer looked after but who were previously looked after between the ages of 11 and 16 for an aggregated period of no less than two years. The Scottish Government has indicated that they are seeking views on this extension. Again it is not possible to quantify the impact that this change will have in Renfrewshire but there is a potential for a substantial increase in the number

of young people seeking assessment of need under their right to aftercare. If the numbers are large then there will be an impact on social work services ability to respond.

- 3.19. A further change in the 2014 Act relates to the provision of financial support for care leavers. The previous legislation allowed local authorities to make financial payments to some care leavers up to their 21st birthday. This provision has now been extended to age 26. The provision of financial support is a discretionary power and the local authority isn't under a duty to make any such payments.
- 3.20. The 2014 Act places a new duty on local authorities to report the death of a care leaver in receipt of aftercare to Scottish Ministers and the Care Inspectorate.

Continuing Care

- 3.21. Part 11 of the 2014 Act introduced a new legal term and concept of "continuing care" which comes into force in April 2015. Part 11 of the 2014 Act also reflects the philosophy of care set out in the Scottish Government's "Staying Put Scotland" guidance of October 2013. As noted earlier this guidance stresses the importance of positively delaying the age young people leave care.
- 3.22. The 2014 Act places a new duty on local authorities in relation to young people who are looked after away from home under continuing care. The new duty requires local authorities to provide a care leaver whose final placement was away from home with the same support they received prior to being looked after including the provision of accommodation.
- 3.23. Whilst the new duty comes into force in April 2015 it will not be applied to care leavers retrospectively. The right to continuing care will only apply to those who leave care after April 2015, who were born after 1 April 1999 and whose final care placement was away from home. In the first year this right will only apply to those care leavers aged 16. In each of the following four years the Scottish Government will extend the right of continuing care to an older group i.e. those aged 17 in 2016/17, 18 in 2017/18 etc. This means that any young person who opted for continuing care in 2015/16 at the age of 16 will be able to remain in their accommodated placement (subject to some restrictions) up to their 22nd birthday.
- 3.24. Almost all looked after and accommodated young people in Renfrewshire remain in their looked after placement at present up until their 18th birthday. This is recognised as good practice and is important in supporting the young person to transfer gradually to independence. Renfrewshire supports young people who have reached the age of 18 via supported placements with their former foster carers or into supported accommodation.
- 3.25. The right of continuing care will be available for looked after children in kinship care. Work will be undertaken over the next three months to consider the financial impacts.

- 3.26. The right of continuing care does not apply in the following circumstances:
- the care leaver was in secure care immediately before they left care;
 - the care leaver was in a care placement (e.g. foster care) where the carer has indicated that they are unable or unwilling to continue with the placement; or
 - the local authority considers that continuing the placement would significantly adversely affect the welfare of the young person.
- 3.27. Local authorities will retain the duty of continuing care until:
- the young person leaves care of their own will;
 - the accommodation ceases to be available; or
 - the local authority decides that continuing to provide the placement would significantly adversely affect the welfare of the young person.
- 3.28. When a young person who has been receiving continuing care ends this they do not have a right to return to a continuing care placement if they feel independence isn't working out. In these circumstances the young person will have a right of aftercare and the local authority will be required to carry out a needs assessment. It should be noted that the Scottish Government has indicated that an expert group will be established to consider a proposal that a young person could either return to care or to a looked after situation. It is not clear when the group will be established or the timescale for it to report.
- 3.29. The 2014 Act places a new duty on local authorities to report the death of a care leaver in receipt of continuing care to Scottish Ministers and the Care Inspectorate.
- 3.30. The draft Ministerial Order outlines the responsibilities for local authorities and other corporate parents in relation to continuing care. Included in the draft Order is the requirement on a Local Authority to consider whether providing an eligible person with continuing care would significantly adversely affect the welfare of that person. The Ministerial Order sets out the matters to be considered in a welfare assessment. It also sets out who must be consulted and what information should be contained in a written record is maintained of any meeting held.

Implications of this report

1. Financial Implications

At present it is not clear of the level of financial impact on local authorities as a result of the new duties contained in the 2014 Act. Work is being progressed to identify the potential impact locally.

2. HR and Organisational Development Implications

None.

3. Community Plan/Council Plan Implications

Children and Young People

- The corporate parenting, aftercare and continuing care draft Ministerial Orders will support groups of vulnerable children and assist in delivering the outcomes contained in the Community Plan for children and

young people.

- | | |
|----------------------|---|
| Jobs and the Economy | - Additional responsibilities for corporate parents will result in additional support to looked after children and should assist in supporting them into further education, training or employment. The draft Ministerial Orders should result in practice contributing positively to the outcomes in the Community Plan in relation to Jobs and the Economy. |
|----------------------|---|

4. Legal Implications

The Children and Young People (Scotland) Act 2014 contains significant legal implications for local authorities. The draft Ministerial Orders also contain significant legal implications for local authorities as outlined in this report.

5. Property/Assets Implications

None.

6. Information Technology Implications

None.

7. Equality and Human Rights Implications

The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because it is for noting only.

8. Health and Safety Implications

None.

9. Procurement Implications

None.

10. Risk Implications

None.

11. Privacy Impact

None.

List of Background Papers: None

Author: Dorothy Hawthorn, Head of Child Care and Criminal Justice,
0141 618 6827

Draft Order laid before the Scottish Parliament under section 99(2) of the Children and Young People (Scotland) Act 2014 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2015 No.

CHILDREN AND YOUNG PERSONS

**The Corporate Parenting (Specified Persons) (Scotland) Order
2015**

Made - - - - 2015

Coming into force - - 1st April 2015

The Scottish Ministers make the following Order in exercise of the powers conferred on them by section 57(2)(b) of the Children and Young People (Scotland) Act 2014⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 99(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Corporate Parenting (Specified Persons) (Scotland) Order 2015 and comes into force on 1st April 2015.

Application of Part 9 (Corporate Parenting): specified persons

2. Persons who between their 11th and 16th birthdays were, but are no longer, looked after by a local authority for periods of time which, when aggregated, total not less than 2 years are specified for the purposes of section 57(2)(b) of the Children and Young People (Scotland) Act 2014⁽²⁾.

St Andrew's House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

(1) 2014 asp 8.
(2) Section 57 of the Act makes provision as to the children and young people to whom Part 9 of the Act applies. By virtue of section 97(2) of the Act, references to a child being or becoming "looked after" are to be construed in accordance with section 17(6) of the Children (Scotland) Act 1995 (c.36).

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order specifies an additional description of persons formerly but no longer looked after by a local authority to whom Part 9 of the Children and Young People (Scotland) Act 2014 applies. Those persons are those who between their 11th and 16th birthdays were, but are no longer, looked after by a local authority for periods of time which, when aggregated, total not less than 2 years.

Part 9 of that Act makes provision about corporate parenting. By virtue of section 57(2)(a) of the 2014 Act the persons specified in article 2 must also be at least the age of 16 but under the age of 26 for Part 9 to apply to them.

Draft Order laid before the Scottish Parliament under sections 29(1A) and (9) and 30(2A) of the Children (Scotland) Act 1995 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2015 No.

CHILDREN AND YOUNG PERSONS

**The Aftercare (Specified Persons and Eligible Needs) (Scotland)
Order 2015**

Made - - - - - 2015

Coming into force - - - 1st April 2015

The Scottish Ministers make the following Order in exercise of the powers conferred on them by sections 29(1)(b) and (8) and 30(2)(b)(ii) of the Children (Scotland) Act 1995(3) and all other powers enabling them to do so.

In accordance with section 29(1A) and (9) and 30(2A) of that Act(4) a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

3.—(1) This Order may be cited as the Aftercare (Specified Persons and Eligible Needs) (Scotland) Order 2015 and comes into force on 1st April 2015.

(2) In this Order—

“the 1995 Act” means the Children (Scotland) Act 1995; and

[“wellbeing” of a person is to be construed in accordance with section 96(2) of the Children and Young People (Scotland) Act 2014].

Sections 29 and 30 of the 1995 Act: specified persons

4. Persons who between their eleventh and sixteenth birthdays were, but are no longer, looked after by a local authority for periods of time which, when aggregated, total not less than 2 years are specified for the purposes of sections 29(1)(b) (after-care) and 30(2)(b)(ii) (financial assistance towards expenses of education or training) of the 1995 Act(5).

After-care: eligible needs

5. The following types of care, attention and support are specified for [the purposes of section 29(8) of the 1995 Act(6)]/[for the purposes of section 29(5A)(a) of the 1995 Act]—

-
- (3) 1995 c.36. Sections 29(1)(b) and (8) and 30(2)(b)(ii) are inserted by section 66(2)(a) and (h) and (3)(a)(iii) of the Children and Young People (Scotland) Act 2014 (asp 8). Section 29 was previously amended by the Regulation of Care (Scotland) Act 2001 (asp 8), section 73(1).
 - (4) Sections 29(1A) and (9) and 30(2A) are inserted by section 66(2)(b) and (h) and (3)(a)(iii) of the Children and Young People (Scotland) Act 2014.
 - (5) Section 93(4)(b) of the 1995 Act provides that any reference in Part II of that Act to a child who is “looked after” by a local authority is to be construed in accordance with section 17(6) of that Act.
 - (6) Section 29(8) provides a definition of “eligible needs” for the purposes of section 29(5A)(a), which is inserted by section 66(2)(f) of the Children and Young People (Scotland) Act 2014.

- (a) financial support to meet essential accommodation and maintenance costs;
- (b) [[information, advice and support] in relation to accessing work and leisure opportunities;] and
- (c) [[insofar as not covered by (b),] advice [and support] [relating to the person's wellbeing]/[designed to promote, safeguard and support the person's [health and] wellbeing].

Name

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in relation to the provision of after-care to young people under section 29 of the Children (Scotland) Act 1995 (“the 1995 Act”) and in relation to financial assistance provided to them under section 30 of the 1995 Act. Section 66 of the Children and Young People (Scotland) Act 2014 amends both these sections and will come into force at the same time as this Order.

Article 2 specifies an additional description of person formerly but no longer looked after by a local authority who will be eligible for after-care support and financial assistance under sections 29 and 30 of the 1995 Act, if they also meet the other age criteria within those provisions. These are persons who between their eleventh and sixteenth birthdays were, but are no longer, looked after by a local authority for periods of time which, when aggregated, total not less than 2 years.

Article 3 specifies the types of care, attention and support which constitute “eligible needs” for the purposes of section 29(5A)(a) of the 1995 Act.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2015 No.

CHILDREN AND YOUNG PERSONS

The Continuing Care (Scotland) Order 2015

Made - - - - 2015

Coming into force - - 1st April 2015

The Scottish Ministers make the following Order in exercise of the powers conferred on them by section 26A(2)(b), (6), (9)(a) [and (11)(a)] of the Children (Scotland) Act 1995⁽⁷⁾ and all other powers enabling them to do so.

In accordance with section 26A(11)(b) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

In accordance with section 26A(12) of that Act they have consulted with each local authority and such other persons as they consider appropriate.

Citation, commencement and interpretation

6.—(1) This Order may be cited as the Continuing Care (Scotland) Order 2015 and comes into force on 1st April 2015.

(2) In this Order—

“the 1995 Act” means the Children (Scotland) Act 1995; and

“welfare assessment” means an assessment carried out by a local authority in accordance with articles 6 and 7 of this Order.

Eligible person: specified age

7. The higher age specified⁽⁸⁾ for the purposes of section 26A(2)(b) of the 1995 Act is seventeen years of age.

Duty to provide continuing care: specified period

8. The period specified for the purposes of section 26A(6) of the 1995 Act is the period from the date on which an eligible person ceases to be looked after by a local authority until the date of their twenty-first birthday.

Assessment of the welfare of an eligible person before ceasing to be looked after

9. For the purposes of section 26A(5)(c) of the 1995 Act, a local authority must consider whether providing an eligible person with continuing care would significantly adversely affect the welfare of that person-

⁽⁷⁾ 1995 c.36. Section 26A was inserted by section 67 of the Children and Young People (Scotland) Act 2014 (asp 8).

⁽⁸⁾ Section 26A(13) contains a definition of “specified” for the purposes of the section.

- (a) [as soon as reasonably practicable before] the person ceases to be looked after by them; and
- (b) by carrying out a welfare assessment of the person in accordance with articles 6 and 7.

Assessment of the welfare of an eligible person receiving continuing care

10. For the purposes of section 26A(7)(c) of the 1995 Act, a local authority must consider whether continuing to provide an eligible person with continuing care would significantly adversely affect the welfare of that person—

- (a) at intervals not exceeding twelve months (the first interval starting from the date on which the person ceases to be looked after by a local authority); and
- (b) by carrying out a welfare assessment of the person in accordance with articles 6 and 7.

Welfare assessment — general

11.—(1) The local authority shall prepare and publish a written statement detailing the manner in which the welfare of eligible persons is to be assessed.

(2) Nothing in this Order shall prevent the carrying out of any welfare assessment under this Order at the same time as there is being carried out any assessment or other consideration under any other enactment.

Welfare assessment — individual cases

12.—(1) Unless it is not reasonably practicable to do so, the local authority shall not complete a welfare assessment without the views of the eligible person having been obtained and the written record of the views being available.

(2) The local authority shall take into account the written record of the views of the eligible person, which shall be recorded in the welfare assessment.

(3) In carrying out a welfare assessment, the local authority shall include each of the matters referred to in the Schedule.

(4) The local authority shall ensure that a written record is maintained of the—

- (a) information obtained in the course of completing a welfare assessment;
- (b) deliberations at any meeting held in connection with any aspect of a welfare assessment; and
- (c) results of a welfare assessment.

(5) In carrying out a welfare assessment, the local authority may seek the views of—

- (a) the parents of the eligible person;
- (b) any person who is not a parent but has parental responsibilities for an eligible person;
- (c) any person who on a day to day basis cares for, or provides accommodation for, the eligible person;
- (d) the head teacher or principal of any school or college attended by the eligible person or the education authority for the area in which the eligible person lives;
- (e) any person providing health care or treatment to the eligible person;
- (f) any welfare co-ordinator appointed for the eligible person;
- (g) [any young person's supporter appointed for the eligible person under regulation 5 of the Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003⁽⁹⁾]; and
- (h) any other person whose views the local authority, or the eligible person, consider may be relevant,

and the local authority shall take into account any such views that have been obtained.

Name

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
Date

⁽⁹⁾ S.S.I. 2003/608 as amended by

SCHEDULE

Regulation 7(3)

Matters to be included in the welfare assessment

1. The eligible person's emotional state, day to day activities, personal safety, influences on the eligible person and the eligible person's personal identity.
2. The eligible person's family relationships, their children, other caring responsibilities, life story, friends, and other significant people in their life.
3. The eligible person's general health (including any mental health needs), contact with health services, medical conditions and disabilities, activities that might affect the eligible person's health, and emotional and mental wellbeing.
4. The eligible person's future plans for study, training or work, schooling (including support needs), skills and experience, qualifications and certificates, and training and work.
5. The eligible person's accommodation arrangements, practical living skills, accommodation options for the future, and support required for living.
6. The eligible person's sources of income, outgoings, savings and debts, requirement for financial support, and budgeting skills.
7. The eligible person's knowledge of their rights and legal entitlements, involvements in legal proceedings, including criminal proceedings as a victim, witness, or alleged perpetrator.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes the provision in relation to the duty placed on local authorities by section 26A of the Children (Scotland) Act 1995 (“the 1995 Act”) to provide eligible persons with continuing care where they cease to be looked after by them. Section 26A was inserted by section 67 of the Children and Young People (Scotland) Act 2014 which will come into force at the same time as this Order.

Continuing care is defined in section 26A(4) of the 1995 Act as meaning the same accommodation and other assistance as was being provided for the eligible person by the local authority, immediately before the person ceased to be looked after.

Article 2 specifies that the higher age limit for “eligible persons” for the purposes of section 26A(2)(b) of the 1995 Act is seventeen years of age. This means that an “eligible person” for the purposes of the duty to provide continuing care is a person who is at least sixteen years of age and who has not yet reached the age of seventeen.

Article 3 specifies that the period the expiry of which ends the local authority’s duty to provide continuing care in terms of section 26A(6) of the 1995 Act is the period from the date on which an eligible person ceases to be looked after by a local authority until the date of their twenty-first birthday.

Article 4 makes provision as to when and how a local authority is to consider whether section 26A(5)(c) of the 1995 Act is the case. The local authority shall carry out an assessment (“welfare assessment”) of the eligible person as soon as reasonably practicable before the person ceases to be looked after by them in accordance with articles 6 and 7.

Article 5 makes provision as to when and how a local authority is to consider whether section 26A(7)(c) of the 1995 Act is the case. The local authority shall carry out a welfare assessment of the person receiving continuing care at intervals not exceeding twelve months (the first interval starting from the date the person ceases to be looked after) in accordance with articles 6 and 7.

Article 6 makes general provision about welfare assessments.

Article 7 sets out the issues to be taken into account by a local authority in completing a welfare assessment, which includes the matters listed in the Schedule, and lists the range of persons whose views they may seek in that connection.

Respondent Information Form

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately. **If you are responding to more than one set of regulations at the same time, you only need to complete this form once.**

1. Name/Organisation**Organisation Name**

Renfrewshire Council

Title Mr ☐ Ms ☒ Mrs ☐ Miss ☐ Dr ☐ **Please tick as appropriate**

Surname

Hawthorn

Forename

Dorothy

2. Postal Address

Renfrewshire Council

Renfrewshire House

Cotton Street

Paisley

Postcode PA1 1TZ**Phone** 0141 618 6838**Email****3. Permissions - I am responding as...****Individual****/ Group/Organisation**☐**Please tick as appropriate**☒

- (a)** Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate☐ **Yes** ☐ **No**

- (b)** Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

☐

- (c)** The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate☒ **Yes** ☐ **No**

<p>Yes, make my response available, but not my name and address <input type="checkbox"/></p>	<p>or</p>	
<p>Yes, make my response and name available, but not my address <input type="checkbox"/></p>	<p>or</p>	

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ **Yes**

☐ **No**

4. Additional information – I am responding as:

Please tick as appropriate

1. NHS Health Board	
2. Other NHS Organisation	
3. General Practitioner	
4. Local Authority	✓
5. Other statutory organisation	
6. Third sector care provider organisation	
7. Independent / private care provider organisation	
8. Representative organisation for professional group	
9. Representative organisation for staff group e.g. trade union	
10. Education / academic group	
11. Representative group for patients / care users	
12. Representative group for carers	
13. Patient / service user	
14. Carer	
15. Other – please specify	

Carolyn Younie
Looked After Children Unit
Scottish Government
Victoria Quay
Edinburgh
EH6 6QQ

Dear Ms Younie

Consultation on Draft Secondary Legislation for Parts 9, 10 and 11 of the Children and Young People (Scotland) Act 2014

This response has been submitted on behalf of Renfrewshire Council. The tight timescale of the consultation period means that this response could not be considered by the elected members and as such is a draft. A copy of this response will be submitted to the members of the Council's Social Work, Health and Wellbeing Policy Board on 13 January 2015.

Renfrewshire Council supports the policy initiative in relation to supporting vulnerable children and young people. We identify children and young people who are looked after as a particularly vulnerable group and therefore welcome the attention given to their needs within the Children and Young People (Scotland) Act 2014.

Renfrewshire Council has a history of promoting "corporate parenting" and our Children's Champions Board is an area of good practice. In our locality we have secured a commitment from a range of partners to accepting their role as corporate parents in advance of the legislation. As such we welcome and support the contents of the Corporate Parenting (Specified Persons) (Scotland) Order 2015.

The draft Ministerial Orders provide some clarity to the groups of young people who will be considered as looked after and those entitled to aftercare and continuing care. We believe that there is much to be commended in terms of the content of the draft Ministerial Orders on the Aftercare (Specified Persons and Eligible Needs) (Scotland) Order 2015 and the Continuing Care (Scotland) Order 2015.

As an authority we are however concerned that the full financial implications for local government is not clear in the consultation document. We note that the extension of rights to the vulnerable young people covered by the draft Orders is something that should be supported. The major area of concern is that the draft Orders extend by a significant margin the numbers of young people for whom local authorities will have a duty to provide services for.

As a local authority with a high number of looked after children we are concerned that the financial implications could be substantial. In addition the basis duties imposed on local authorities will result in increased demand on already stretched services, particularly in social work. As a consequence we offer qualified support to the draft Orders and seek a reassurance from the Scottish Government that additional funding will be allocated to support us to deliver the new responsibilities.