



Briefing: Amendments on Continuing Care for stage three of the Children (Care, Care Experience and Services Planning) (Scotland) Bill



18th March 2026

This briefing sets out our support for three amendments to the Children's Bill on Continuing Care, tabled by Martin Whitfield MSP. The amendments bring the discretionary upper age threshold for Continuing Care in line with the threshold for aftercare; introduce a right to return to Continuing Care; and bring Continuing Care within scope of the UNCRC (Incorporation) (Scotland) Act 2024. We urge MSPs to support these amendments to enable care-experienced young people to experience a stable family environment for longer and ensure their rights are protected.

Extending the discretionary upper age threshold for Continuing Care to age 26

Purpose of the amendment

At stage two we worked with Martin Whitfield on an amendment to require local authorities to provide Continuing Care for young people up to the age of 26 where a young person and their carers want this. This was based on the position in [The Promise](#) report (p.92) that "Young people must be encouraged to 'stay put' in their setting of care for as long as they need to", [ONS data](#) showing that young people across the UK now leave home at an average age of 24, and a recognition of the trauma and developmental delay many care-experienced people have faced.

While we were disappointed that this amendment was rejected, Nicola Sturgeon's amendment to give local authorities the discretion to provide Continuing Care up to age 25, if satisfied that doing so will promote or safeguard the person's welfare, was a welcome compromise. However, we believe this age limit should be changed to 26 to bring it in line with the upper age threshold for aftercare. We urge MSPs to support this amendment to reduce complexity and avoid creating another age threshold for support for care-experienced people.

Text of the amendment

106	In section 2D, page 6, line 33, leave out <25> and insert <26>
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Introducing a right to return to Continuing Care

Purpose of the amendment

The above stage two amendment omitted the original provision that a local authority's duty to provide Continuing Care ceases if a young person leaves their accommodation of their own volition. This omission was intended to ensure young people who choose not to enter Continuing Care, or who leave Continuing Care before they turn 21, can choose to return if they face difficulties living independently or realise they are not ready to move out. This would give them the same right to return that, [research](#) shows, many young people raised outside the care system exercise. Importantly, due to existing exemptions on a local authority's duty to provide Continuing Care, this would not mean requiring foster carers to keep a room free or to agree to

a return to Continuing Care if they did not wish to. Rather, it would mean local authorities must support any return to Continuing Care that a young person and their carer request.

This change was rejected at stage two because it was part of the rejected amendment to require local authorities to provide Continuing Care up to age 26. However, we believe it merits further debate as a crucial change demanded by the independent care review. The Promise report (p.92) says that “Young adults for whom Scotland has taken on parenting responsibility must have a right to return to care and have access to services and supportive people to nurture them.” We urge MSPs to support this amendment to deliver this key change and enable Scotland’s care system to provide the flexible, family-based support that The Promise so clearly strives towards.

Text of the amendment

108 After section 2D, insert—

<Extension of continuing care where person requests to return to accommodation>

(1) The Children (Scotland) Act 1995 is amended as follows.

(2) In section 26A (provision of continuing care: looked after children), after subsection (7) insert—

“(7A) For the purposes of subsection (7)(a) above, the duty to provide continuing care only ceases until such time (if any) as the person requests to return to the accommodation.”.>

Bringing Continuing Care in scope of the UNCRC Incorporation Act

Purpose of the amendment

Continuing Care was introduced in law as an amendment to the [Children \(Scotland\) Act 1995](#) by the [Children and Young People \(Scotland\) Act 2014](#). As the 1995 Act was passed pre-devolution, it is outwith the scope of the [UNCRC \(Incorporation\) \(Scotland\) Act 2024](#). This means children have no legal remedy if their rights are not upheld by public bodies carrying out their duties under the 1995 Act, including in relation to Continuing Care.

While most individuals accessing Continuing Care are aged 18 or over, and therefore not rights-holders under the UNCRC, the latest [statistics](#) show that around 10% are aged 16 or 17, making it important that the legislation is in scope of the UNCRC Act.

There has been widespread concern across the children’s sector, including from [Together Scotland](#), about existing parts of the current Children’s Bill not being in scope of the UNCRC Act. Therefore, to avoid making the same mistake in seeking to amend Continuing Care provisions, this amendment restates them in full to bring them in scope of the UNCRC Act.

Text of the amendment

Amendment **101** restates the entirety of the original Continuing Care provisions. See page 7 of the [daily list of amendments for 11 March](#) for the full text.

Summary

These amendments deliver on two key commitments in The Promise – enabling young people to ‘stay put’ in their care setting for as long as needed and introducing a right to return – as well

as the repeated but as yet unmet commitment by the Scottish Government to draft children's legislation in a way that is fully UNCRC-compliant. We are calling on MSPs to support these amendments to provide the continued security of a safe home, supportive relationships and a gradual transition to independence for young people who need it most.

For more information on the contents of this briefing, please contact Natalie Williams, Head of Policy and Campaigns at The Fostering Network, at Natalie.Williams@fostering.net.