

Age limits and eligibility conditions for care, extended care and leaving care support for young people in care and care leavers: The case for cross-national analysis

Robbie Gilligan

Abstract

Greater awareness internationally of the special needs and circumstances of young people leaving care settings has led to growing policy interest and innovation in recent years. This paper draws attention to a small sample of policy approaches and developments in certain jurisdictions in this area. The case is argued for the value of a cross national comparative approach in studying provision for care leavers. Potential elements of a framework for analysing relevant policy are discussed. An invitation is extended to join a continuing international 'conversation' on the themes covered in the paper.

Keywords

Young people in care; care leavers; care; after care

Corresponding author:

Robbie Gilligan, RGILLIGN@tcd.ie

Introduction

There has been increasing awareness in recent years of the challenges facing care leavers internationally as they make the transition from the formal care system when they reach the upper age limit of entitlement to care (UN General Assembly, 2010). Leaving formal care can often mean the young people involved suddenly facing life without the supports or safety nets that are typically available to their same-age peers who have not been in the care system. There is also growing understanding of the reality that it may sometimes take many years for young people leaving care to work through the legacy issues from before and during their time in care (Brady & Gilligan, 2018). In addition, there is evidence that leaving care even slightly later may have positive impacts on young people's subsequent progress. American researchers have found higher rates of educational participation among young people still in care at age 19 when compared to peers leaving care at an earlier age (Courtney, Dworsky & Pollack, 2007). Gradually, policy in certain jurisdictions has begun to reflect an appreciation of these considerations and insights.

What is being offered here is a selective analysis of some of the latest known policy responses to these issues in certain jurisdictions. The examples chosen are not intended in any way to present a complete picture of what may be happening globally but to convey a flavour of some of the approaches now evident across different jurisdictions. This analysis has two aims. Firstly, it seeks to facilitate the initial sketching out of some of the key elements of an analytical framework in this policy area. Secondly, it sets out to demonstrate the value of comparative approaches to policy in this area. It is also hoped, in turn, that it

may prompt further contributions to an ongoing process of describing relevant policy developments in these and other jurisdictions thus permitting further elaboration of the initial framework being presented here.

There are three key components of the framework being proposed.

'Care'

In this context, 'care' is a widely used term to describe formal (official) placement of a child away from his or her family in another setting, whether in another family, related or not related, or in some form of residential care. The decision requires a mandate from the child's parents, or more commonly in most jurisdictions from a court or a legal body invested with similar legal powers. In effect, such 'care' is often 'imposed' on a child or young person by concerned adults. As noted in the title of this article, most jurisdictions have legal or customary time limits for the duration of such care. 'Care' as understood here is organised by public authorities, in contrast to informal care of children away from their families of birth that may occur 'organically' in certain family or community networks.

Extended Care - Raising the care leaving age

Extended care (sometimes known as continuing care) is one of two innovations emerging in certain jurisdictions. It involves raising the care leaving age – the upper age limit beyond which the young person no longer enjoys the full provision of the care system. While care typically may be experienced as 'imposed' by the young person, extended care operates with the agreement of the young person who has requested or accepted the opportunity to remain in or return to care.

Enhanced after care support

The second innovation beginning to gain ground involves improved measures of after-care (sometimes termed transitional) support for care leavers. These measures may take different practical forms, and have varying terms attached in terms of, for example, eligibility, duration or upper age limits

While neither of these two innovations is reflected universally across care systems, it is notable the extent to which they are now adopted or on the agenda in many jurisdictions. It should also be acknowledged, however, that these reforms are not breaking entirely new ground, since in certain jurisdictions there has or had been a tradition of a later care leaving age than what might be termed the 'modal' (most frequent) age limit of 18 years. One such jurisdiction with a longer established older age limit is the state of Illinois in the US where the care leaving age has long been 19 years of age (Courtney, Dworsky & Pollack, 2007).

The following are some examples of the nature of changes underway:

- New Zealand is raising the care leaving age beyond 17 years of age, whereby a young person 'will be able to remain in care or return to care up until the age of 21, with transition support and advice available up to 25' (Ministry of Social Development, 2016).
- Scotland has extended the age of leaving care (from April 2015) until 21 for both foster and residential care <https://beta.gov.scot/policies/looked-after-children/children-leaving-care/>. The term 'continuing care' is used to cover this extension of care from the previous age of 16 (The Scottish Government, 2013).

- In the United States, there are also major enhancements in provision relating to care leavers with policies involving a mix of extended care and transition support:

In approximately 46 States, the District of Columbia, and American Samoa, youth who are in out-of-home care at the time they reach their 18th birthday are allowed to extend that placement and continue receiving services from the social services agency. In most cases, youth may remain under agency supervision until age 21—in situations that can include foster care, a supervised independent living arrangement, or the provision of transitional living services— while they continue working on educational or vocational goals and further develop their independent living skills and transition to independence (Child Welfare Information Gateway, 2017).

This article explores, in a preliminary way, some of the conceptual 'fine print' behind such actual or intended reforms. It is also intended as an initial prompt to building a more comprehensive and current picture of provision across jurisdiction.

There are many aspects to provision and support for young people in care and care leavers. A key dimension of such provision is the related legal framework underpinning eligibility, entitlements and so on. A lot can be learned by scanning policy approaches across different jurisdictions. What is happening? What changes are beginning to emerge in different systems? As noted, this paper is not claiming to answer these questions in a comprehensive or definitive way, but

it is aiming to 'begin a conversation' on these issues, highlighting the potential value of a fuller comparative picture. In particular, it is hoping to stimulate a process of post-publication peer review, thanks to this journal's open access policy. This can allow readers to serve as reviewers who can contribute verifiable observations which can help to clarify or elaborate authoritatively the latest detail and relevant sources for key aspects of provision for a fuller number of jurisdictions.

There are many challenges in initiating or pursuing such a process of 'critical description' that are not easily resolved. These include:

- Achieving and up-to-date and accurate 'live time' picture of policy measures in a given jurisdiction;
- Achieving clarity as to how widely used terms are understood and operated across different jurisdictions;
- 'Unpacking' actual or apparent differences between extended care provision or after care / transitional support;
- Coping with the reality that there may be discrepancies between what is claimed in the policy or legal document and actual practice;
- Avoiding confusion that may potentially arise from cultural, linguistic and administrative system differences in relation to interpreting key terminology;
- Dealing with translation issues, where legislation and policy is not available (in this case) in English;
- Managing the complexity of detail often inherent in policy provision – achieving a reasonable balance between accessibility and technical accuracy;

- Making judgments as to reliability of non-official sources (researchers etc) where official documentation has not been sourced.

While there are such challenges, there are also of course many opportunities presented by such a fuller picture of international practice. In a time when there are increasing calls for a stronger evidence base to inform the policy process, having an expanding evidence base of how these matters are handled in different jurisdictions internationally could be of considerable policy value – in terms of either crafting or reviewing policy for young people in care and care leavers.

The following discussion is structured around a set of questions which are used to help uncover key issues and draw on relevant examples.

How is the issue of an upper limit for care leaving age managed across different jurisdictions?

Mostly the upper age limit for care provision is fixed by law in statute – age 18 is common, with Finland being one such example where care ends by law at age 18 (Finland, Ministry of Social Affairs and Health, 2007, 2013). There are also some variations or exceptions. Completion of a certain stage of education may be used as another criterion for reaching the time limit for exiting formal care. Care ends in Sweden, for example, when the young person graduates high school, or reaches the age of 21 (when general parental responsibility is deemed complete) (Söderqvist, Bülow & Sjöblom, 2015).

What if any flexibility is applied to the operation of the upper age limit, and under what special circumstances may this be extended?

Extensions of the upper age limit of care leaving may be applied in certain jurisdictions to support completion of, or progress in education (or training). Such extensions are typically granted on the application or agreement of the young person and remaining in care under such terms is an entirely voluntary process.

Some countries build in special automatic extensions of the upper age limit for care for young people with disabilities. Germany is one such example where the general upper age limit of care is extended from 21 to 27 years 'in any cases involving serious disabilities caused by psychological impairment' (Harder, Zeller, López, Köngeter & Knorth, 2013).

There is an international trend towards extending the legal upper age limit of care from 18 years to a later age, with or without certain conditions. One recent example is the legal reform in Portugal (September 2015) which has allowed care to be extended to age 25 for young people still in education (Rodrigues, 2018). Reforms in England now allow placement in foster care to be extended to the age of 21, or to the end of an education course being undertaken on the young person's 21st birthday (Great Britain, Her Majesty's Government, 2013). However, there is no equivalent to this 'Staying Put' scheme for young people leaving care from residential care settings, a difference that has attracted a lot of criticism.

In certain jurisdictions, young people may be allowed to request an extension of their time in care before they reach the formal care leaving age limit. In addition, in some cases, it may be permitted for a young person who has left care to request a return to care once this occurs while the young person is still aged within the upper age limit of extended care.

It also seems that, in practice, in certain systems young people in care may be able to negotiate a choice based on different options in extended care, as for example by continuing in the existing setting where they have been living or by accessing a more tailored alternative arrangement.

It should be noted, for clarity, that extended care appears not to apply to extending the age of original entry to care — but may extend, as noted, the age at exit.

Regional influences may also help to shape provision. Historically, there was a pattern of later age limit for care leaving in certain countries in Eastern Europe during the Communist period. The current policy in Romania reflects this tradition, with upper age limit of care extended to 26 years where a young adult living in care is in education (Anghel, Herczog & Dima, 2013, p. 246).

How is after care understood in terms of type of support offered? How does after care differ from care?

There is a spectrum of policy approaches to 'after care' (also known in some places as transition support) — an 'umbrella' term which translates into different responses / provisions in different systems. The one commonality is that the

relevant provision applies for some fixed or flexible period after the period of formal care is deemed to end. At one end of the spectrum is a policy 'silence' about after care implying no recognised (need for) measures at a policy level. Sweden is one such example, where the policy view has been that the universal provision of the welfare state is sufficient to meet the after care needs of care leavers, a viewpoint now under challenge by researchers (Höjer & Sjöblom, 2010). At the other end of the spectrum, may be one or more specified measures which may be available under certain conditions and for which eligible young people may apply. A critical issue for young people is the level of certainty or guarantee there may be in terms of provision or accessibility of support provided. The level of support specified in legal or policy documents may vary. The recent Child Care (Amendment) Act 2015 in Ireland introduced a duty on the authorities to provide every eligible care leaver with a formal after care plan (Ireland, Department of Children and Youth Affairs, 2018) There has been concern expressed however that there may still be difficulty in securing access to the provisions specified in any such plan, since provision of such support remains at the discretion of the authorities. Examples from other jurisdictions show how legal measures may frame the after care offering with greater or lesser specificity in term of what is to be provided.

In Finland (Ministry of Social Affairs and Health, 2007, 2013), there is a general provision that municipalities which provide child welfare services have a duty to provide after care for up to five years after a young person leaves care, or until the young person reaches 21years of age. Such a duty on the provider of after care strengthens the position of the young person reliant on after care, but there is still an issue as to how this duty is to be interpreted — how broadly or

narrowly, how generously, or how sparingly in terms of the scope of what is offered in practice. In Norway, the authorities are required to consult young people in care about their after care needs beyond age 18 and provide support according to any agreed written plan until the age of 23 (Backe-Hansen, Højer, Sjöblom & Storø, 2013). In a somewhat different approach, in April 2018, the government of the Province of British Columbia in Canada introduced after care measures for eligible young adults aged 19-26 who were formerly in care. In its information for relevant young adults the government explains to young people that these measures may 'help cover the cost of things like housing, child care, tuition and health care while you go back to school, or attend rehabilitation, vocational or approved life skills program' (Government of British Columbia, 2018). While a window of time for eligibility for any after care to be provided is usually specified, some countries may also offer scope for after care for varying lengths of time according to the circumstances of the given case.

Conclusion

Overall, it may be said that change is in the air. There are signs of systems becoming more flexible, but there are still some consistent features relevant to further developing an analytical framework in this area:

- Age is widely used as a 'gateway' to end or begin access to provisions (for example, ending entitlement to care, or commencing eligibility for after care);
- Where relevant, extended care or transitional / after care support is offered subject to the young person's voluntary application / agreement;

- A condition that a young person should be 'productive' is very frequently an implicit condition of eligibility for extended care or after care support. Educational participation is very often a condition for being offered more favourable treatment (extension of care, or offers of after care), with the corollary that those not in education may suffer exclusion (despite objective evidence of need). In addition, participation in training programmes may be an alternative condition in place of education for accessing extended or after care;
- Disability may be specified as a reason for specially extended provision of care;
- The form of care may, in some cases, have a bearing on eligibility for provision – 'graduates' from foster care may sometimes be treated differently (more favourably) when compared to those emerging from residential care.

As in all areas of applied policy, unpacking the detail can prove highly technical. Terminology can be complex and sometimes hard to fathom from outside. Apparently similar terms may be understood differently in different jurisdictions (or languages). Despite such pitfalls the argument here is that there is a rich dividend for such efforts at cross-system understanding. They can serve to illuminate policy processes and impacts and thereby help to stimulate and promote more responsive and effective provision.

There is much to be learned from cross-jurisdiction policy comparison at the levels of description, analysis and reflection. This paper has concentrated mainly on 'what' questions, on the initial stage of (critical) description of what is happening — with a particular eye on some of the clear policy 'movers' in this

area, while not altogether neglecting the less 'activist' jurisdictions in terms of policy development. Later work can focus more on analysis and reflection, with attention to the various levels of the 'why' questions that lie behind the conception and implementation of reform, including, for example, exploration of the 'why?' of which actions and which actors.

About the author

Robbie Gilligan is Professor of Social Work and Social Policy, Trinity College Dublin. He is a registered social worker and a former foster carer. He is co-principal investigator of the cross-national Care to Work Pathways Study and a member of the INTRAC research network on care leavers and care leaving. He serves on the International Advisory Board of the Institute for Inspiring Children's Futures, University of Strathclyde. In addition, he is currently a Visiting Professor at CIRCY - Centre for Innovation and Research on Children and Youth, University of Sussex.

References

Anghel, R., Herczog, M. and Dima, G. (2013). The challenge of reforming child protection in Eastern Europe: The cases of Hungary and Romania. *Psychosocial Intervention*, 22(3), pp. 239-249.

Backe-Hansen, E., Højer, I., Sjöblom, Y. and Storø, J. (2013). Out of home care in Norway and Sweden-similar and different. *Psychosocial Intervention*, 22(3), pp. 193-202.

Brady, E. and Gilligan, R. (2018). The life course perspective: An integrative research paradigm for examining the educational experiences of adult care leavers? *Children and Youth Services Review*, 87, pp. 69-77.

Child Welfare Information Gateway (2017). Extension of foster care beyond age 18. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau. Retrieved from: <https://www.childwelfare.gov/pubPDFs/extensionfc.pdf>

Courtney, M., Dworsky, A. and Pollack, H. (2007). When should the state cease parenting? Evidence from the Midwest study. *Chapin Hall Center for Children Issue Brief No.115*, December. Chicago: Chapin Hall Center for Children at the University of Chicago.

Finland, Ministry of Social Affairs and Health (2007, 2013). *Child Welfare Act, No. 417/2007*. Unofficial translation (amendments up to 1292/2013 included). Online: Finish Ministry of Justice (FINLEX). Retrieved from: <http://www.finlex.fi/en/laki/kaannokset/2007/en20070417.pdf>

Government of British Columbia (2018). *Agreements with Young Adults*. Canada: Gov.bc.ca. Retrieved from: <https://www2.gov.bc.ca/gov/content/family-social-supports/youth-and-family-services/teens-in-foster-care/agreements-with-young-adults>

Great Britain, Her Majesty's Government (2013, May). (2013). *Staying put: arrangements for care leavers aged 18 years and above. DfE, DWP and HMRC Guidance*. London: Department for Education. Retrieved from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/201015/Staying_Put_Guidance.pdf

Harder, A. T., Zeller, M., López, M., Köngeter, S. and Knorth, E. J. (2013).

Different sizes, similar challenges: Out of home care for youth in Germany and the Netherlands. *Psychosocial Intervention*, 3(22), pp. 203-213.

Höjer, I. and Sjöblom, Y. (2010). Young people leaving care in Sweden. *Child & Family Social Work*, 15(1), pp. 118-127.

Ireland, Department of Children and Youth Affairs (2018). Children in care – aftercare. Dublin: Department of Children and Youth Affairs. Retrieved from: https://www.dcy.gov.ie/viewdoc.asp?fn=%2Fdocuments%2FChildren_In_Care%2FChildreninCareAftercare.htm&mn=chif1f&nID=5

New Zealand, Ministry of Social Development (2016, October 19). Age of care and support to increase. Press Release. Wellington: New Zealand Government. Retrieved from: <https://www.beehive.govt.nz/release/age-care-and-support-increase>

Rodrigues, Sonia (2018, Feb 16). Personal Tweet message, *Twitter*.

Söderqvist, Å., Bülow, P. H. and Sjöblom, Y. (2015). "In Sweden work is more important than the culture, actually!" The care leaving process for unaccompanied youths from the perspective of social workers. *Transnational Social Review*, 5(3), pp. 241-257.

The Scottish Government (2013) *Staying Put Scotland: Providing care leavers with connectedness and belonging*. Guidance for Local Authorities and other Corporate Parents: Supporting looked after children and young people to remain in care, as part of a staged transition towards adulthood and greater

independence. Edinburgh: The Scottish Government. Retrieved from:

<http://www.gov.scot/Resource/0043/00435935.pdf>

UN General Assembly (2010). *Support for After Care*. Paragraphs 131-136.

Resolution 64/142. Guidelines for the Alternative Care of Children February 24th,

New York. Retrieved from:

https://www.unicef.org/protection/alternative_care_Guidelines-English.pdf