



Department
for Education

The Children Act 1989 guidance and regulations

**Volume 3: planning transition to
adulthood for care leavers**

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Preface

Status

Volume 3 of the Children Act 1989 Guidance and Regulations provides guidance, primarily addressed to local authorities and their staff in England, about their functions under Part 3 of the Children Act 1989. It is issued as guidance under section 7 of the Local Authority Social Services Act 1970 which requires local authorities in exercising their social services functions, to act under the general guidance of the Secretary of State. This guidance should be complied with by local authorities when exercising these functions, unless local circumstances indicate exceptional reasons that justify a variation.

The guidance is addressed to:

- personal advisers
- children's services social workers;
- frontline managers who have particular responsibilities in relation to care leavers and looked after children;
- lead members in local authorities;
- directors of children's services;
- managers of services for care leavers and looked after children; and
- commissioners of services for care leavers and looked after children.

It will also be relevant to partner agencies and to providers of services for care leavers and looked after children, including agencies in the private, voluntary and public sectors.

These regulations and guidance are designed to ensure care leavers are given the same level of care and support that their peers would expect from a reasonable parent and that they are provided with the opportunities and chances needed to help them move successfully in to adulthood. Research and practice show that those leaving care supported according to the following principles have the best chance of a successful transition to adulthood:

- quality;
- giving chances where needed;
- tailoring to individuals' needs.

This guidance seeks to have these principles at the centre of decision making for care leavers.

Changes in the current version

The following amendments, revisions and changes have been made in the current version of this guidance;

- Chapter 7: Planning and arranging suitable accommodation for the transition to independent living;
 - 'Suitable accommodation' –updated paragraph 7.12 to include further information on suitable accommodation.

Chapter 1: Introduction and summary

- 1.1. This guidance is intended primarily for local authorities but will also assist other agencies who provide services to care leavers. The guidance provides information for local authorities so they are able to meet the requirements of the *Care Leavers (England) Regulations 2010*¹ ('the Care Leavers Regulations'). This guidance replaces that issued when the provisions of the Children (Leaving Care) Act 2000 amending the Children Act 1989 ('the 1989 Act') came into operation in 2001.
- 1.2. The guidance largely concerns information about the support provided to young people who have ceased to be looked after (i.e. those referred to in the legislation as "relevant" and "former relevant" children). Guidance in relation to young people entitled to support to prepare them to leave care but who remain looked after (i.e. "eligible children") is included in Volume 2 of the Children Act 1989 Guidance – *Care Planning, Placement and Case Review regulations and statutory guidance* ('the Care Planning Regulations'). This describes a comprehensive framework of **assessment, care planning, intervention and case review** that must be followed by local authorities to plan the support they will give to prepare 16 and 17 year olds for the time when they will not be looked after.
- 1.3. The main aim of the Care Leavers Regulations and of this guidance is to make sure that care leavers are provided with comprehensive personal support so that they achieve their potential as they make their transition to adulthood.
- 1.4. The information in this guidance builds on the evidence base that has been developed over the last ten years as to what constitutes good professional practice in working with care leavers, to provide them with the stability and support necessary so that this group of vulnerable young people achieve positive outcomes².
- 1.5. This guidance would not have been possible without the work of professionals from all agencies across England who have given their dedication and commitment to listening to the voices of care leavers and providing the support they need.

Context

- 1.6. The Children (Leaving Care) Act 2000 introduced new requirements on local authorities to plan for looked after children so that they have the support they

¹ S.I. 2010/2571

² Stein, M (with data annexe by Morris M) (2010) C4EO Knowledge Review 3: *Increasing the number of care leavers in 'settled, safe accommodation'* (September 2010).http://www.c4eo.org.uk/themes/vulnerablechildren/careleavers/files/increasing_care_leavers_in_safe_accommodation_full_knowledge_review.pdf

need as they make their transition to the responsibilities of adulthood. Since 2001 the trend to discharge young people from care prematurely when they are as young as 16 has been reversed and many more care leavers now live in suitable accommodation when they are no longer looked after; the numbers of care leavers in education, training and employment has also increased. However, there is still more to do as there remain too many young people expected to cope with independent living too early and without proper support.

- 1.7. Transition to adulthood is often a turbulent time: transitions are no longer always sequential – leave school, work, relationship, setting up home, parenthood. Young people can become adult in one area but not in others. For many young adults, their transition to adulthood can be extended and delayed until they are emotionally and financially ready and they have the qualifications they need and aspire to, so that they have the opportunity to achieve their economic potential. Young people from care may not have this option. Whilst most young people know they can call on the support of their families to help them through unforeseen difficulties, care leavers may not be able to rely on unqualified support if things do not work out as they make their journey into adulthood.
- 1.8. Care leavers should expect the same level of care and support that others would expect from a reasonable parent. The local authority responsible for their care should make sure that they are provided with the opportunities they need, which will include offering them more than one chance as they grapple with taking on the responsibilities of adulthood.

The Children and Young Persons Act 2008

- 1.9. The Children and Young Persons Act 2008 ('the 2008 Act'), which received Royal Assent in November 2008, amended the 1989 Act so that:
 - Looked after children must not move from accommodation regulated under the Care Standards Act 2000 to other arrangements without a statutory review of their care plan chaired by their Independent Reviewing Officer (IRO). A move to other arrangements would include moving to accommodation, often referred to as semi-independent accommodation, which would not be subject to regulatory inspection by Ofsted. [Children do not cease to be looked after just because they are placed in accommodation that is not regulated under the Care Standards Act.]
 - Local authorities must pay a Higher Education Bursary to certain former relevant children (see Chapter 5 and Appendix B).
 - Care leavers under the age of 25 who wish to take up a programme of education or training will have an entitlement to resume support from a

personal adviser (PA) appointed by the local authority previously responsible for providing their leaving care support.

Principles for transition

- 1.10. Research and practice³ shows that young people who have been looked after will have the best chance of success as adults if those providing transitional care and other support take the following principles into account in talking to the young person and when making any decision:
- Is this good enough for my own child?
 - Providing a second chance if things don't go as expected.
 - Is this tailored to their individual needs, particularly if they are more vulnerable than other young people?
- 1.11. No young person should be made to feel that they should "leave care" before they are ready. The role of the young person's IRO will be crucial in making sure that the care plan considers the young person's views. Before any move can take place, the young person's statutory review meeting, chaired by their IRO, will evaluate the quality of the assessment of the young person's readiness and preparation for any move. The young person and the professionals responsible for contributing to the plan and the review must concur that they have developed the skills necessary to manage any transition to more "independent living" where, as a result, less support will be provided.
- 1.12. Local authority provision of continuing leaving care support must ensure that throughout the period that each care leaver is provided with leaving care services, his/her needs are subject to on-going assessment and review, so that the authority's intervention puts them on the pathway to success as they make their transition to adulthood.

³ Stein M (with data annexe by Morris M) (2010) C4EO Knowledge Review 3: *Increasing the number of care leavers in 'settled, safe accommodation'* (September 2010).
http://www.c4eo.org.uk/themes/vulnerablechildren/careleavers/files/increasing_care_leavers_in_safe_accommodation_full_knowledge_review.pdf

Chapter 2: The legal framework

Definitions of categories of children entitled to care leaving support

Definitions	Main Statutory Obligations
<p>Eligible children</p> <p>Defined in paragraph 19B of Schedule 2 to the 1989 Act, and regulation 40 of the Care Planning Regulations as a child who is:</p> <p>(a) looked after,</p> <p>(b) aged 16 or 17, and</p> <p>(c) has been looked after by a local authority for a period of 13 weeks, or periods amounting in total to 13 weeks, which began after he reached 14 and ended after he reached 16.</p>	<p>The local authority has the same statutory obligations in relation to eligible children as they do towards other children looked after by them, including a duty to maintain their care plan, carry out regular reviews of their case and appoint an independent reviewing officer for the child. In addition they must:</p> <ul style="list-style-type: none"> • prepare an assessment of the eligible child’s needs with a view to determining what advice, assistance and support it would be • appropriate for them to provide him (both while he is still looked after and after he stops being looked after) [paragraph 19B(4) of Schedule 2 to the 1989 Act; the requirements for carrying out the assessment are set out in regulation 42 of the Care Planning Regulations] • as soon as possible after the assessment of needs is completed, prepare a pathway plan (which includes the child’s care plan) [paragraph 19B(4) of Schedule 2 to the 1989 Act; the requirements for preparing the pathway plan are set out in regulation 43 of the Care Planning Regulations] • keep the pathway plan under regular review [paragraph 19B(5) of Schedule 2 to the 1989 Act] • appoint a personal adviser for the

Definitions	Main Statutory Obligations
	<p>child [paragraph 19C of Schedule 2 to the 1989 Act; the functions of the personal adviser are set out in regulation 44 of the Care Planning Regulations].</p>
<p>Relevant children</p> <p>Defined in section 23A(2) of the 1989 Act as a child who is:</p> <p>(a) not looked after,</p> <p>(b) aged 16 or 17, and</p> <p>(c) was, before he last ceased to be looked after, an eligible child.</p> <p>Regulation 3 of the Care Leavers Regulations prescribes a further category of relevant child who is:</p> <p>(a) not looked after,</p> <p>(b) aged 16 or 17, and</p> <p>(c) at the time he attained the age of 16 was detained (i.e. detained in a remand centre, a young offenders institution or a secure training centre, or any other centre pursuant to a Court order), or in a hospital, and immediately before he was detained or in hospital he had been looked after by a local authority for a period or periods amounting in all to at least 13 weeks which began after he reached the age of 14.</p> <p>Regulation 3 of the Care Leavers Regulations also provides that a child who has lived for a continuous period of six months or more with:</p> <p>(a) his parent,</p> <p>(b) someone who is not his parent but</p>	<p>The local authority that last looked after the relevant child must:</p> <ul style="list-style-type: none"> • take reasonable steps to keep in touch with the relevant child [section 23B(1) of the 1989 Act] • prepare an assessment of the relevant child’s needs with a view to determining what advice assistance and support it would be appropriate for them to provide him (unless they already did so when he was an eligible child) [section 23B(3)(a) of the 1989 Act; the requirements for carrying out the assessment are set out in regulations 4 and 5 of the Care Leavers Regulations] • as soon as possible after any assessment of needs is completed, prepare a pathway plan [section 23B(3)(b) of the 1989 Act; the requirements for preparing the pathway plan are set out in regulation 6 of the Care Leavers Regulations] • keep the pathway plan under regular review [section 23E(1D) of the 1989 Act; the requirements for carrying out reviews are set out in regulation 7 of the Care Leavers Regulations] • appoint a personal adviser for the child (unless they already did so when he was an eligible child) [section 23B(2) of the 1989 Act; the

Definitions	Main Statutory Obligations
<p>who has parental responsibility for him or, (c) where he is in care and there was a residence order in force immediately before the care order was made, a person in whose favour the residence order was made then that child is not a relevant child despite falling within section 23A(2). Where those living arrangements break down and the child ceases to live with the person concerned, the child is to be treated as a relevant child.</p>	<p>functions of the personal adviser are set out in regulation 8 of the Care Leavers Regulations]</p> <ul style="list-style-type: none"> • safeguard and promote the relevant child’s welfare by maintaining him, providing him with or maintaining him in suitable accommodation and providing assistance in order to meet his needs in relation to education, training or employment as provided for in his pathway plan [section 23B(8) of the 1989 Act and regulation 9 of the Care Leavers Regulations; regulation 9 also makes provision about the meaning of “suitable accommodation”].
<p>Former relevant children</p> <p>Defined in section 23C(1) of the 1989 Act as a young person who is:</p> <p>(a) aged 18 or above, and either (b) has been a relevant child and would be one if he were under 18, or (c) immediately before he ceased to be looked after at age 18, was an eligible child.</p>	<p>The local authority that last looked after the former relevant child must:</p> <ul style="list-style-type: none"> • take reasonable steps to keep in touch with the former relevant child, and if they lose touch with him, to re-establish contact [section 23C(2) of the 1989 Act] continue to keep the pathway plan under regular review [section 23C(3)(b) of the 1989 Act; the requirements for carrying out reviews are set out in regulation 7 of the Care Leavers Regulations] • continue the appointment of the personal adviser for the child [section 23C(3)(a) of the 1989 Act; the functions of the personal adviser are set out in regulation 8 of the Care Leavers Regulations] • if his welfare requires it, provide financial assistance by contributing to the former relevant child’s expenses in living near the place

Definitions	Main Statutory Obligations
	<p>where he is, or will be, employed or seeking employment [sections 23C(4)(a) and 24B(1) of the 1989 Act] if his welfare and educational and training needs require it, provide financial assistance to enable him to pursue education or training [sections 23C(4)(b) and 24B(2) of the 1989 Act]</p> <ul style="list-style-type: none"> • if the former relevant child pursues higher education in accordance with his pathway plan, to pay him the higher education bursary [section 23C(5A) and the Children Act 1989 (Higher Education Bursary) (England) Regulations 2009]. <p>The duties in section 23C(2), (3) and (4)(b) continue until the former relevant child reaches 21 or, where the child's pathway plan sets out a programme of education or training which extends beyond his 21st birthday, they continue for so long as he pursues that programme.</p>
<p>Former relevant children pursuing further education or training</p> <p>Defined in section 23CA(1) as a former relevant child who is:</p> <p>(a) aged under 25,</p> <p>(b) in relation to whom the duties in 23C(2)(3) and (4) no longer apply, and</p> <p>(c) he has informed the local authority that he wants to pursue or is pursuing a programme of education or training.</p>	<p>The local authority which owed duties to that former relevant child under section 23C of the 1989 Act must:</p> <ul style="list-style-type: none"> • appoint a personal adviser for that person [section 23CA(2) of the 1989 Act] • carry out an assessment of the needs of that person with a view to determining what assistance (if any) it would be appropriate for them to provide him [section 23CA(3)(a) of the 1989 Act; the requirements for carrying out the assessment are set out in regulations 4 and 5 of the Care Leavers Regulations]

Definitions	Main Statutory Obligations
	<ul style="list-style-type: none"> • prepare a pathway plan for him [section 23CA(3)(b) of the 1989 Act; the requirements for preparing the pathway plan are set out in regulation 6 of the Care Leavers Regulations] • to the extent the person’s educational or training needs require it, provide financial assistance [section 23CA (4) and (5) of the 1989 Act].
<p>Persons qualifying for advice and assistance</p> <p>Defined in section 24 of the 1989 Act as a person who is:</p> <p>(a) aged at least 16 but is under 21, (b) with respect to whom a special guardianship order is in force (or was in force when they reached 18) and was looked after immediately before the making of that order, or (c) at any time after reaching the age of 16 but while he was still a child was, but is no longer, looked after, accommodated or fostered.</p>	<p>The relevant local authority (as defined in section 24(5) of the 1989 Act) must consider whether the person needs help of a kind the local authority can give:</p> <ul style="list-style-type: none"> • under section 24A - to advise and befriend and give assistance, • under section 24B - to give financial assistance – see above; or where the person is in full time further or higher education, is under the age of 25 and qualifies for advice and assistance, or would have done if he was under 21, assistance in relation to securing vacation accommodation [sections 24A(2) and (3), and 24B of the 1989 Act].

- 2.1. Plans for transition to adulthood must be in place for all looked after children aged 16 and 17 who have been looked after for at least 13 weeks after they reached the age of 14. The 13 weeks can be continuous or made up of separate episodes of care; they exclude short-term placements made by way of respite care, but must include a period of time (at least 24 hours) after reaching the age of 16.
- 2.2. Planning for transition to adulthood must take place for every looked after child regardless of any other status that a child or young person may have. Regulation 3 of the Care Leavers Regulations defines an additional group of relevant children who would have qualified for help under the 1989 Act but for

the fact that on reaching 16 they are detained – whether in a remand centre, young offender institution or a secure training centre, or any other institution ordered by a court, or in hospital.

- 2.3. Young people who were previously eligible and have returned home and become relevant and subsequently qualifying, will revert to being relevant if this arrangement breaks down before their 18th birthday.
- 2.4. Responsibilities for planning continuing support applies to all care leavers until they reach the age of 21 or, if they are being helped with education or training, to the end of the agreed programme of education or training (which can take them beyond their 25th birthday). The Children and Young Persons Act 2008 includes provision so that, where a former relevant child previously entitled to leaving care services wishes to take up additional education or training beyond the age of 21, but before the age of 25, then their responsible authority must ensure that they are allocated continuing PA support.
- 2.5. Where a young person is a “qualifying child”, Section 24B(5) of the 1989 Act requires a local authority, where they assess there is a need, to provide either vacation accommodation or the means to secure it, to qualifying children up to the age of 24.

Qualifying children

- 2.6. Local authorities may give advice, guidance and assistance to certain groups of young people who “qualify” for leaving care support. Some “qualifying children” will be as vulnerable and have very similar needs to eligible, relevant or former relevant children. The table above sets out the categories of young people who may be “qualifying children”.
- 2.7. Section 24(3) states that subsection 24(2)(d) applies even if the 3 month period began before the young person reached the age of 16. Section 24(4) provides that in the case of a young person formerly looked after by a local authority, the local authority which last looked after him must take such steps as they consider appropriate to keep in touch with him in order to discharge their functions under sections 24A and 24B.
- 2.8. Section 24(5) sets out which local authority is responsible for providing to a qualifying young person aftercare services under section 24A and 24B. In the case of a young person formerly looked after by a local authority, the relevant authority is the one which last looked after him. In the case of someone qualifying for advice and assistance under any of the other provisions at section 24(2) the **relevant authority is the authority in whose area the person has asked for help.**

- 2.9. Where a qualifying child has been previously looked after, the local authority must assess their needs to establish whether they require advice and assistance. Where, following an initial assessment, the authority concludes that support will be necessary over a period of time, they should draw up a plan with the young person outlining the support that will be provided. In order to determine the extent of the support required, a core assessment may be required and the plan that follows might follow the same format as a pathway plan for a relevant or former relevant child. The plan will outline the support to be provided to the young person, including, if necessary, any financial support. The plan should be drawn up by a social worker or suitably qualified person.
- 2.10. A young person who was not looked after for 13 weeks may be a qualifying child. If that young person returns home, perhaps as a result of a decision made at their first statutory review as a looked after child, then that young person should not be regarded as “qualifying” under section 24 of the 1989 Act; rather, support to the young person and his family should be provided under section 17 of the 1989 Act.
- 2.11. The local authority should be able to provide written information, in a leaflet and available on the authority’s website, to potentially qualifying young people informing them about their entitlement to an assessment and the range of services that they might expect to receive as a result. This must include clear details about how to access the authority’s processes for making a complaint or representation should the young person not be satisfied with the outcomes of the assessment or any services that follow.

Special guardianship

- 2.12. Children who were looked after by a local authority immediately before the making of a special guardianship order may qualify for advice and assistance under the 1989 Act (see table above). Section 24(1A) of the 1989 Act provides that the child must:
- have reached the age of 16, but not the age of 21;
 - if less than 18 years old, have a special guardianship order in force;
 - if 18 years old or above, have had a special guardianship order in force when they reached that age; and
 - have been looked after by a local authority immediately before the making of the special guardianship order.
- 2.13. The relevant local authority should make arrangements for young people who meet these criteria to receive advice and assistance in the same way as for any other young person who qualifies for advice and assistance under the 1989 Act.

Regulation 22 of the Special Guardianship Regulations 2005 provides that the relevant local authority is the one that last looked after the child⁴.

Access to advocacy

- 2.14. Section 26A of the 1989 Act imposed duties on local authorities in respect of the provision of advocacy services⁵. All looked after children must be made aware of their entitlement to independent advocacy support and how they can access it. This entitlement is not just for when a looked after child or care leaver wishes to complain, it includes situations where young people need to make representations about the quality of the care and support provided by their responsible authority.
- 2.15. Access to advocacy will be particularly important where the local authority's decision-making processes concern the child's readiness to move from their care placement. Young people may frequently require independent support to enable them to put their view across and express their wishes and feelings about the help they feel they will need for the future, so that they are enabled to reach their potential.

⁴ The Special Guardianship Regulations 2005 (SI 2005/1109)

⁵ *Get it Sorted - Guidance on Providing Effective Advocacy Services for Children and Young People Making a Complaint under the Children Act 1989* (2004):
<https://www.gov.uk/government/publications/advocacy-services-for-children-and-young-people>

Chapter 3: Pathway planning and personal advisers

- 3.1. As corporate parents, responsible authorities should provide support to care leavers in the same way that reasonable parents provide support for their own children.
- 3.2. The participation of care leavers is fundamental to effective pathway planning. Young people should be central to discussions and plans for their futures and it will be exceptional for decisions about their futures to be made without their full participation. They must be active participants in building their future, based on their hopes and aspirations.
- 3.3. The responsibilities of local authorities to prepare pathway plans and support care leavers as they make the transition to adulthood apply irrespective of any other services being provided for them, for example, because they are disabled, in custody, or because they are being looked after as they entered the country as an unaccompanied asylum seeking child (UASC).

Care planning and pathway plans

- 3.4. Transition to adulthood for looked after children should not just start on their 16th birthday; preparation for a time when they will no longer be looked after should be integral to the care planning process throughout their time in care.
- 3.5. The 1989 Act requires that a pathway plan must be prepared for all eligible children and continued for all relevant and former relevant children. Each young person's pathway plan will be based on and include their care plan and will set out the actions that must be taken by the responsible authority, the young person, their parents, their carers and the full range of agencies, so that each young person is provided with the services they need to enable them to achieve their aspirations and make a successful transition to adulthood. This plan must remain a "live document", setting out the different services and how they will be provided to respond to the full range of the young person's needs.
- 3.6. All relevant and former relevant children must have a pathway plan based on an up to date and thorough assessment of their needs.
- 3.7. The pathway plan must address in particular:
 - The young person's health and development building on the information included in the young person's health plan established within their care plan when they were looked after. The plan should support the young person's access to positive activities⁶.

⁶ Good health goes beyond having access to formal health services. Supporting care leavers' health and development requires attention to environmental factors as well as physical emotional and mental health needs. They need support so they have the knowledge and skills to communicate and relate to others and to take responsibility for themselves.

- Education, training and employment. The Personal Education Plan (PEP) should continue to be maintained while the young person continues to receive full or part-time education. Information within the PEP will feed directly into the Pathway Plan. Pathway plans must have an explicit focus on career planning, taking into account the young person's aspirations, skills, and educational potential.
 - Contact with the young person's parents, wider family including siblings and friends and the capacity of this network to encourage the young person and enable them to make a positive transition to adulthood.
 - The young person's financial capabilities and money management capacity, along with strategies to develop the young person's skills in this area.
- 3.8. The assessment and pathway planning process for a care leaver must involve a measured evidence based analysis of the young person's continuing need for care, accommodation and support, including whether they should continue to remain looked after. Where the care plan for the young person has been maintained and kept up to date, the development of the pathway plan should build on information and services set out in the care plan, incorporating the services that will be provided to the young person to develop their resilience and equip them to make a positive transition to adulthood so that they can manage the challenges of more independent living.
- 3.9. Where there is any proposal for the young person to move to different accommodation, as part of the process to prepare for their transition to adulthood, then the pathway plan must include an explicit assessment of the support they need to develop the skills that they will require to be ready for this significant change. The plan must also include a thorough assessment as to the suitability of the potential accommodation for the individual young person.
- 3.10. It is very important that information about the young person's financial capability is fully up to date, so that where the young person is to move to more independent accommodation this issue has been assessed thoroughly before any move takes place.

Relevant children and pathway plans

- 3.11. A pathway plan must be prepared for each relevant child. This pathway plan should be prepared prior to the young person ceasing to be looked after (i.e. when they are an "eligible child") and considered at a statutory review chaired by the young person's IRO.
- 3.12. The professional preparing the pathway plan on behalf of the local authority, usually the young person's social worker, must engage constructively with the

young person to define priorities and the focus of the plan. In addition they must consult with:

- the young person's parents, other adults with parental responsibility and relevant members of their wider family network;
- the young person's current carer and any prospective future provider of housing and accommodation support;
- the young person's designated teacher, college tutor or other educational professional familiar with the young person's learning needs and educational objectives;
- any independent visitor appointed for the young person;
- designated nurse for looked after children or any other medical professional providing health care or treatment named in their health plan;
- any PA, already appointed to support the young person;
- the young person's IRO; and
- any advocate acting for the young person.

3.13. It is of course essential that discussion takes place with the young person about who will be contacted to contribute to their pathway plan. It will not always be appropriate for all those listed above to be involved in the pathway planning process – although there would need to be a compelling justification for a pathway plan to be completed without reference to the young person's carer or to professional advice about the young person's education, training and employment pathway.

3.14. The views of the young person must be recorded and incorporated into the pathway plan. The plan must also indicate how arrangements to support the young person have taken the views of the others listed above into account. Disagreements between the young person and professionals should be noted carefully.

3.15. Figure 1 sets out the information concerning the needs of each care leaver that must be considered in order to draw up the pathway plan. It will be a matter for the responsible authority to determine the format their staff should use to record this.

3.16. A copy of the plan must be given to the young person. It will also be good practice, where agencies are contributing to the delivery of an individual young person's pathway plan, that they have a copy of the relevant extract from the plan relating to their contribution. This should be signed by the agency's representative, the young person and their PA, as evidence of their commitment to achieving the plan's objectives.

Figure 1 – Needs assessment and content of pathway plans for relevant and former relevant children

Dimensions of need	Plan to include
<p>Health and development</p>	<p>Use of primary healthcare services.</p> <p>Arrangements for the young person’s medical and dental care according to their needs making reference to the health plan established within the care plan in place when the young person was looked after.</p> <p>Access to specialist health and therapeutic services.</p> <p>Arrangements so that young person understands the actions they can take to maintain a healthy lifestyle. Opportunities to enjoy and achieve and take part in positive leisure activities.</p>
<p>Education, training and employment</p>	<p>Statement of the young person’s aspirations and career ambitions and actions and support to achieve this.</p> <p>Access to careers advice.</p> <p>Education objectives and support – continue to use the young person's Personal Education Plan.</p> <p>Arrangements to support the young person in further education and/or higher education.</p> <p>Support to enable suitably qualified young people to enter apprenticeships, make applications to university or gain necessary qualifications.</p> <p>Arrangements for work experience, career mentoring or pathways into employment etc.</p>

<p>Emotional and behavioural development</p>	<p>How the authority will assist the young person to develop self-esteem and maintain positive attachments.</p> <p>Does the young person display self-esteem, resilience and confidence?</p> <p>Assessment of their capacity to empathise with others, reason and take appropriate responsibility for their own actions.</p> <p>Capacity to make attachments and appropriate relationships; show appropriate emotion; adapt to change; manage stress; and show self-control and appropriate self-awareness.</p>
<p>Identity</p>	<p>How the authority intends to meet any of the young person's needs arising from their ethnicity, religious persuasion, sexual orientation.</p> <p>How does the young person understand their identity stemming from being a child in care and a care leaver?</p> <p>How the authority will assist the young person to obtain key documents linked to confirming their age and identity.</p>
<p>Family and social relationships</p>	<p>Assessment of the young person's relationship with their parents and wider family.</p> <p>Contact with family – carried across from care plan. Young person's relationship with peers, friendship network and significant adults. Strategy to improve any negative features of these relationships.</p> <p>How all these relationships will contribute to the young person making a successful transition to adulthood and how they will assist with integration into the community that they identify with.</p>

<p>Practical and other skills necessary for independent living</p>	<p>The young person is adequately prepared with the full range of practical skills they will need to manage the next planned move towards greater independence.</p> <p>The young person is prepared for taking greater responsibility as they are expected to manage more independently.</p>
<p>Financial arrangements</p>	<p>Assessment of care leaver's financial needs and their financial capability.</p> <p>Does the young person have a bank account, national insurance number, and appreciate the value of regular saving etc. Do they have access to financial support and adequate income to meet necessary expenses?</p> <p>Pathway plan must include a statement of how the authority proposes to maintain a relevant child, the arrangements in place for the young person to receive financial support and contingency plans.</p> <p>Statement of financial assistance to be provided to a former relevant child. Refer to Chapter 8.</p>
<p>(Suitability of) Accommodation</p>	<p>An assessment of the quality of accommodation where the young person is living / any accommodation under consideration for them to live in.</p> <p>How far is this suitable to the full range of the young person's needs?</p> <p>What steps might need to be taken to improve it? [Schedule 2 of the Care Leavers Regulations]</p>

Personal advisers

- 3.17. Once a young person ceases to be looked after and they are a relevant child, or once they reach legal adulthood at age 18 and are a former relevant child, then the local authority will no longer be required to provide them with a social worker to plan and co-ordinate their care.
- 3.18. The local authority must, however, appoint a PA to support them. The PA will act as the focal point to ensure that care leavers are provided with the right kind of personal support. All care leavers should be aware of who their PA is and

how to contact them, so that throughout their transition to adulthood they are able to rely on consistent support from their own key professional.

- 3.19. It will be good practice, where possible, for the young person to maintain the same PA from the age of 18 that was allocated to their support when they were an eligible or a relevant child. However, where young people have continued to have a qualified social worker as their PA, their reaching legal adulthood may provide the opportunity to transfer responsibility for supporting them to a PA with particular skills in working with young adults. Any such transfer of support should take place in a planned and managed way; for example, the transfer of support could be timed to coincide with a scheduled review of the young person's pathway plan, or when the young person becomes more settled following a change of education/training or accommodation.

Qualifications and skills

- 3.20. There is no prescribed professional or occupational qualification determining which professional should carry out the PA function for any individual care leaver. However a PA should normally possess or be working towards a professional qualification.
- 3.21. Anyone appointed to carry out the PA function should possess a sound demonstrable understanding of human growth and development (in particular being competent in understanding the insecurities faced by looked after children as they make their transition to adulthood). They will also need to have a working knowledge of the range of issues that care leavers might expect to face as they make their transition to adulthood and the legal framework affecting care leavers (in particular the 1989 Act and Children (Leaving Care) Act 2000 and related Regulations).
- 3.22. PAs should work closely with doctors and nurses involved in health assessments and would benefit from training in how to promote both physical and mental health⁷.
- 3.23. They should also be capable of understanding and acting upon relevant legislation concerned with housing and homelessness. More detail about the range of knowledge and skills that a PA requires is provided at Appendix A.
- 3.24. In recruiting PAs, it will be ideal if the range of advisers is sufficiently wide to provide young people with a choice, bearing in mind considerations of gender and ethnicity. The responsible authority will always need to give careful consideration to any preferences expressed by the young person about who might fulfil their PA function. However, in the final analysis, the local authority

⁷ *Statutory guidance on promoting the health and wellbeing of looked after children* (2009): <https://www.gov.uk/government/publications/promoting-the-health-and-wellbeing-of-looked-after-children>

must be satisfied in every case that the person acting as a young person's PA has the requisite skills and the necessary availability. For example, local authorities should ensure that a PA is familiar with a young person's way of communicating if they are disabled, e.g. use Makaton or other augmentative communication methods, or has access to appropriate training, interpretation or facilitation. The final decision as to who will be suitable to act as a PA for an individual care leaver rests with the responsible authority.

- 3.25. Where a young person has developed a trusting relationship with a carer then it should be possible for the local authority to delegate aspects of the PA function to them, as it will clearly be in young people's interests to build on the positive relationships that they have already established. However, in these circumstances the responsible authority must be clear as to the support that the carer will be providing and how any potential conflicts of interests might be managed. For example, where the young person is living as member of the carer's family, perhaps in a "staying put" arrangement.
- 3.26. It will be important that the PA is able to form a working relationship with the young person to carry forward their pathway plan. Young people will have views about the kinds of qualities that they will expect from their PA and these should be taken into account when matching an individual care leaver to a PA.

Functions

- 3.27. Regulation 8 of the *Care Leavers Regulations* sets out the functions of a PA for a relevant or a former relevant child.

(a) To provide advice (including practical advice) and support

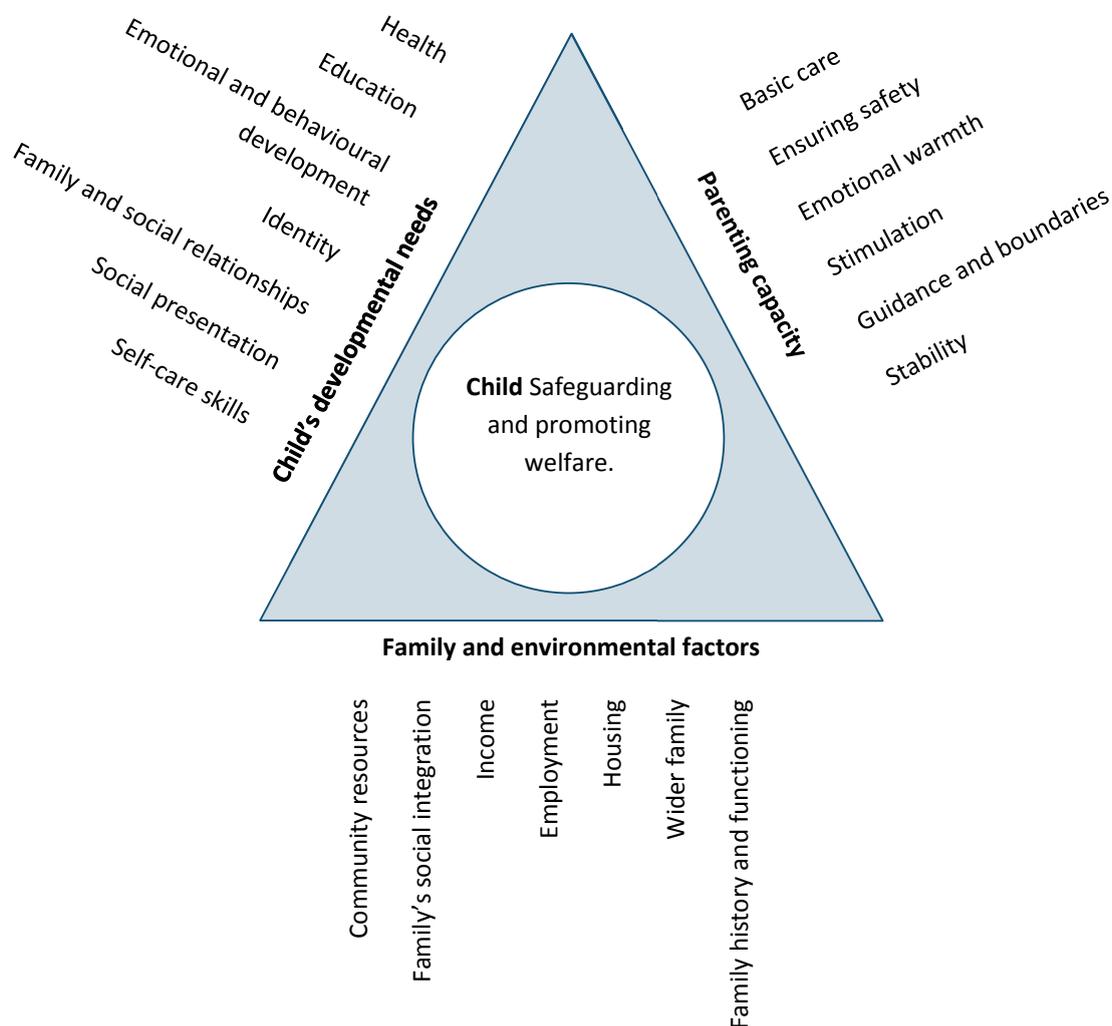
- 3.28. The pathway plan should include details about the kind of support that the young person might expect their PA to provide. The kinds of issues where the PA will be the care leaver's initial source of advice might include:
 - basic information and assistance to develop the practical skills they will need to manage the expectations placed on them as they gradually assume the responsibilities of greater independence;
 - information about financial capability – how to manage day to day finances; how to take up any entitlements to benefits;
 - information about the housing options potentially available to the young person and how to access accommodation and advice;
 - support to the young person to develop their confidence and decision-making capacity;
 - information about education, training and employment opportunities;
 - support in finding and sustaining employment;

- general information about maintaining positive health and wellbeing; knowledge about how to access targeted and specialist health services (e.g. information, advice and support about mental health, or sexual health);
 - information about leisure, sporting and cultural opportunities to enable care leavers to enjoy and participate in community life.
- 3.29. The pathway plan will also need to include scope for contingencies that might be required to be followed as the relationship changes over time.

(b) To participate in assessment and preparation of pathway plans

- 3.30. Prior to young people becoming relevant or former relevant at age 18, a pathway plan should already be in place. The PA will be the key professional responsible for co-ordinating each care leaver's support. This means that where the young person's circumstances change and it becomes necessary to revise their pathway plan, the PA may be the most suitable professional able to re-assess their needs and suggest amendments to the plan to the local authority, setting out how the young person will be supported in future.
- 3.31. The PA then will need to use their knowledge and skills so that the dimensions of need set out in the Framework for Assessment of Children in Need and their Families (see Figure 2), are included in the pathway plan (see Figure 1).
- 3.32. Communication with young people will be at the heart of the assessment process. The PA will need to be able to establish a rapport with care leavers and take their views into account when taking forward plans for their support. However, it is important to note that, for a relevant child who has not reached legal adulthood, respecting a young person's wishes and feelings does not mean automatically agreeing with all of their views. The PA must make their own professional judgment about the child's best interests. Both for relevant, but also for former relevant children, where young people's wishes and feelings appear to be in conflict with the PA's informed professional view of their best interests, then the PA will have a responsibility to negotiate with the young person about a reasonable way forward.

Figure 2 – Assessment Framework



(c) To participate in the review of the pathway plan⁸

3.33. The PA must make sure that the pathway plan is reviewed at the prescribed intervals (see Chapter 4) and will also be responsible for convening additional reviews to resolve potential crises faced by the care leavers that they support. For example, where there is a risk that a young person might be evicted from their accommodation, it will be essential that the PA convenes a review involving all relevant professionals, along with the young person, to develop a plan to enable the young person to maintain their accommodation or move in a planned way, therefore preventing them from becoming homeless.

⁸ Regulation 7 of the Care Leavers (England) Regulations 2010 and Schedule 1

- 3.34. However, where prompt action is required to respond to a problem faced by a care leaver, convening a review to co-ordinate arrangements for their professionals' support should not stop immediate and necessary action by the PA – which could involve making immediate contact with relevant agencies.

(d) To liaise with the responsible authority in the implementation of the pathway plan

- 3.35. Every PA needs to understand the arrangements for liaising with the responsible authority so that the pathway plan for the young people they support is implemented. The responsible authority must agree arrangements with the PA (or where the adviser is not an employee of the authority, with their agency) for their supervision and support.

(e) To co-ordinate the provision of services and take reasonable steps so that care leavers make use of services

- 3.36. In carrying forward, or participating in drawing up the pathway plan the PA will need to have identified the range of services necessary to respond to each dimension of the young person's needs. The PA role will be to coordinate how services are provided for the young person, developing constructive professional relationships, in order that all agencies recognise their important investment in enabling the young person to succeed as they make their transition to adulthood. Services will need to be provided in a timely way and each service involved with a young person will need to appreciate how they contribute to the pathway plan and understand the contribution made by other services.
- 3.37. It will also, of course, be essential that the PA has been able to engage and, as far as reasonably practicable, motivate the young person, so that services are accepted and used effectively. To this end, it will be important that, as far as possible, care leavers are given some choice about the services supporting them and feel that their voice is listened to, in influencing the quality and direction of the support that they receive.

(f) To keep informed about care leavers' progress and wellbeing

- 3.38. Each care leaver must have an up to date and active pathway plan based on a current assessment of their needs. PAs must be in regular face to face contact with every care leaver that they support. The pathway plan must set out expectations for the PA to see the care leaver and, if relevant, arrangements for staying in touch in other ways. This could, for example, include expectations of regular exchanges of text messages, emails and phone conversations between the PA and the young person.

- 3.39. Regulation 8(2) of the *Care Leavers Regulations* requires that when a care leaver moves to new accommodation, the PA must see them at that accommodation within 7 days of the move. Subsequently they must see the care leaver at the point at which the pathway plan will be first reviewed – namely after 28 days – and then they must visit the care leavers at no less than 2 monthly intervals. It is important to understand that these are minimum requirements. Where care leavers develop problems as they assume the responsibilities of adulthood they should expect, and will require, much more frequent personal contact with their PA.
- 3.40. Visits should often be scheduled to take place at the accommodation where the young person lives. On each occasion the PA must consider whether this accommodation continues to be suitable for the young person. The PA will need to observe the general state of the property and check how well the care leaver is managing in their accommodation, including that they are managing their financial commitments for rent, utilities etc.⁹. Where a young person is living in semi-independent accommodation linked to the provision of housing related support, the PA should monitor how well the accommodation, with its related support, is meeting the young person's needs. They should liaise closely with the young person and their housing support worker to identify and resolve any problems.

(g) To keep full, accurate and up to date records of contacts with the care leaver and services provided

- 3.41. The PA will be responsible for keeping an up to date record of their involvement with each care leaver and therefore of the responsible authority's involvement with the young person. A note should be made on each visit and on other contacts with the young person. Contact with other agencies must also be recorded. The case record can be used to establish that the plan continues to set out an effective means of supporting the young person. A properly recorded pathway plan and case file should demonstrate that the responsible authority is meeting its statutory duties towards the care leaver concerned.
- 3.42. The pathway plan should be a living document. Care leavers should be given a copy of their plan and provided with regular information about the records being maintained on their behalf and where these are stored. Young people should be offered assistance so they are able to have easy access to their case files.
- 3.43. Data on pathway plans might also be used to evaluate the wider performance of an authority's leaving care service.

⁹ Regulation 9(2) of the Care Leavers (England) Regulations 2010

Budget holding

- 3.44. The PA is responsible for coordinating the services provided to support individual care leavers. These will include provisions to enable care leavers to develop financial capability and to access income maintenance services. The responsible authority is also accountable for accommodating and maintaining care leavers who are relevant children. How young people access and manage their personal finances will be a major factor determining whether they will be able to make a successful transition to adulthood.
- 3.45. PAs will have to engage with finance management issues and it may be desirable for PAs to have direct access to funding, for example, to provide emergency out of hours support to care leavers. Responsible authorities will need to establish the parameters of budget holding with PAs as part of their wider financial policy (see Chapter 8).

Training and supervision

- 3.46. Supervision of PAs will fulfil a number of functions:
- to ensure that the PA is offering each young person on their caseload the support required, as specified in their pathway plans;
 - to develop the PA's skills and competencies and enable them to reflect on their practice, so that they improve and refine their skills and become more effective in delivering their tasks; and
 - to identify their training and development needs.
- 3.47. Supervisors should be responsible for making sure that case records are in order and up to date and that PAs' recording conforms to agency standards. Apart from regular supervision meetings with the PA, supervisors should be appraising each PA's performance by inviting regular feedback from other agencies and, of course, from young people themselves.

Personal adviser to 25

- 3.48. Section 23CA of the 1989 Act requires that young people previously eligible for leaving care services resuming programmes of education or training after the age of 21 are entitled to continuing support from a PA allocated from their responsible authority.
- 3.49. In this context, the definition of a programme of education or training must be interpreted broadly. For example, this might include options such as: completion of a basic skills course, so that the young person has the numeracy and literacy skills needed to compete in the jobs market; take up of a course of further education; take up of a university place; support to enable the young

person to complete a recognised postgraduate qualification; or participation in vocational training and apprenticeships.

- 3.50. Each local authority should develop its own specific policy setting out the support that it is prepared to offer to this group of care leavers.
- 3.51. Policies should include the following information:
- arrangements about how young people can resume contact easily with their responsible authority so they are able to take up this support;
 - details of how the authority will work with the young person to develop a new education and training focused pathway plan; and
 - information about any financial support.
- 3.52. In every case where a care leaver requests this support, authorities will need to assess the appropriateness of the education or training course and how it will help them to achieve their ambitions. The leaving care team should meet with the young person and based on the assessment of their needs and the suitability of the course, assign a Personal Adviser to participate in the preparation of a pathway plan. The plan should reflect the agreed educational outcomes for the young person and the type of support the young person will require.
- This assessment should draw on the information about the young person's skills and capabilities which will have been set out in pathway plans up to age 21. The extent of practical and financial assistance provided will depend on the authority's assessment of the young person's needs and will reflect the type of course, whether it is full or part time and the young person's existing income.
- 3.53. Local authorities should ensure that all their care leavers (including those who live out of authority) are aware of their entitlement to a PA up to age 25 if they wish to return to education and training. Local authorities should also provide information (a letter or leaflet) on how to get in touch in the future.
- 3.54. Many young people will be experiencing a number of practical and emotional difficulties in their lives as they navigate the complexities of adulthood, which mean that they would be unable to return to education or training immediately. Local authorities should explain that they will support them to overcome these difficulties so that they can return to education or training up to age 25 if this is their wish. They should in particular encourage all young people who are not in education, employment, or training (NEET) to take up this offer of support.
- 3.55. Local authorities should make it clear that this entitlement to resume the pathway planning process and a support relationship with a named personal adviser, starts from the time the young person informs the local authority of their intention to resume their education or training and ends with the completion of the course.

- 3.56. Young people do not need to have decided what education or training they would like to pursue. They can get in touch if they are 'wanting to pursue education or training' and in such cases, the personal adviser should help the young person identify the options best suited to them.
- 3.57. Care leavers will need support and guidance to help them think about and plan their return to education or training, consider all aspects such as financial support and impact on housing or benefits, as they do once the course has actually commenced. In particular support should be provided with the consideration of and access to appropriate courses.
- 3.58. The re-instated pathway plan must have a specific focus on the support that the individual care leaver will need to be able to meet the education or training goals agreed with their responsible authority.
- 3.59. It is possible that young people may seek support to complete a series of education/training opportunities and local authorities will need to assess their need for continuing assistance in this regard.
- 3.60. The duties of the local authority continue for as long as the young person continues to pursue the agreed programme of education or training. The local authority's duties are as set out in the re-instated pathway plan.

Chapter 4: Care leavers aged 18-24

Introduction

- 4.1. The 1989 Act requires the responsible authority to continue to provide various forms of advice, assistance and guidance to young people over the age of 18 making the transition from care to more independent living arrangements. These requirements apply if they have previously been eligible or relevant children, who are described as former relevant children (and may apply to qualifying children, depending on the local authority's assessment of their needs).
- 4.2. These duties operate primarily until the young person reaches the age of 21. However, the duties continue beyond a young person's 21st birthday where they remain engaged in education or training and continue until the end of the agreed programme as set out in their pathway plan.
- 4.3. Section 24B(2) gives a power to local authorities to assist with the expenses associated with education and training up to the age of 21. For the most part this will be in respect of "qualifying" young people.

Duties

- 4.4. For former relevant young people, the responsible authority will continue to:
 - provide the young person with a PA (section 23C(3)(a) of the 1989 Act);
 - review and revise the pathway plan regularly (section 23C(3)(b)); and
 - keep in touch (section 23C(2)(a) and (b)).
- 4.5. Responsible authorities' duty to provide accommodation and maintenance for care leavers ends when they reach 18. However they have duties to:
 - provide general assistance (section 23C(4)(c));
 - provide assistance with the expenses associated with employment (section 23C(4)(a));
 - provide assistance with the expenses associated with education and training (section 23C(4)(b));
 - provide vacation accommodation (or the funds to secure it) to care leavers in Higher Education, or in residential Further Education (section 24B(5)); and
 - provide a bursary (£2,000) to care leavers going on to Higher Education (section 23C(5A)).

- 4.6. The duties outlined above should follow from the needs identified in the responsible authority's assessment that informs each young person's pathway plan. This assessment will have to demonstrate how, in responding to these duties, it will best meet their educational and/or welfare needs.

Pathway plan for former relevant children

- 4.7. Former relevant children will continue to have a pathway plan. The plan will cover the same topics and fulfil the same functions as the pathway plan for relevant children.
- 4.8. However, the local authority will no longer be primarily responsible for the young person's financial support and maintenance (see Chapter 8). The plan will need to be clear about the mainstream and universal services, including accommodation that will be provided to the young person; and how these contribute to achieving positive outcomes. The plan should reflect high aspirations for the young person and allow them the chance to have more than one opportunity to succeed.
- 4.9. As they mature and develop, support for former relevant young people should enable and empower them to take increasing control over the pathway planning process. Empowering young people may require a PA to allow care leavers the opportunity to take risks and learn and grow, even if this means that they may not initially be successful in what they set out to achieve. This will require considerable professional skill, judgement, engagement and attention to the young person's developing and changing needs.
- 4.10. PAs will need to strike a balance between being "hands off" and intervening in support of the young person. PAs must be ready to step in, and be active in making sure that young people are offered the right kind of support to enable them to succeed as they make the transition to adulthood, recognising that in order to succeed, young people may need to experience failure and a learning experience first.
- 4.11. If a former relevant young person is not intending to continue in an approved programme of education or training, then the pathway planning process should be brought to a conclusion in an agreed way around the time that the young person reaches the age of 21.
- 4.12. Depending on whether any outstanding needs have been identified for the young person, the final year of pathway planning should be focused on identifying sources of adult community based support outside of the local authority's children's services. For care leavers whose health needs do not meet the criteria for support by adult services, their PA should ensure that all

possible forms of support, including that offered by the voluntary sector, should be identified and facilitated as appropriate¹⁰.

Reviews of pathway plans

- 4.13. Regulation 7 of the Care Leavers Regulations sets out the arrangements for reviewing the pathway plans of relevant and former relevant children. Regulations 7(2)(a) and (b) require the local authority to arrange a review in circumstances where it, or the PA, consider it necessary or where the relevant or former relevant child requests it. Where a relevant child moves to unregulated accommodation (i.e. accommodation that is not regulated under the Care Standards Act 2000 and is not inspected by Ofsted), then the first review of the pathway plan must take place as soon as is practical after 28 days. Apart from ensuring that the pathway plan continues to respond to all the dimensions of the young person's needs, one of the essential functions of this review will be to establish that they have settled into their accommodation and that this is, in practice, suitable in the light of their needs.
- 4.14. In circumstances where young people move in a planned way, the first review will need to decide whether it will be necessary to review the pathway plan in a further three months or whether a review at six months is more appropriate. The decision to review sooner will depend on the PA's assessment of the vulnerability of the child or young adult concerned.
- 4.15. It will be good practice for reviews to take place at an early stage (usually 28 days) after any change in the young person's accommodation. This will be particularly important for any relevant child – as the local authority remains responsible for the accommodation and maintenance of this potentially very vulnerable group of young people. This first review provides a set opportunity to check that a young person has settled into new accommodation and need not be excessively formal. However, where young people are moving because of instability and uncertainty in their circumstances, then reviewing after 28 days of any move taking place provides the opportunity to bring all agencies together to scrutinise the options for bringing stability back into a young person's life.
- 4.16. The above requirements for review describe the maximum permitted intervals between reviews. Reviews should always be brought forward where there is an assessed risk that a crisis may develop in a young person's life. The purpose of these meetings will be to allow all the agencies supporting the young person to meet with them and to agree strategies so that any potential crises can be averted.

¹⁰ *Statutory guidance on promoting the health and wellbeing of looked after children* (2009)
<https://www.gov.uk/government/publications/promoting-the-health-and-wellbeing-of-looked-after-children>

- 4.17. For example, given the serious implications for a young person's future, the responsible authority, or a relevant or former relevant young person's PA, might usually make sure that a review should take place:
- Where a young person has been charged with an offence and there is a possibility of their being sentenced to custody, which will risk losing their (suitable) accommodation.
 - Where a young person is at risk of being evicted from their accommodation or otherwise threatened with homelessness.
 - Where professionals are concerned about the parenting capacity of a relevant or former relevant young person, with there being a possibility that their own child may need to become the subject of a multi-agency safeguarding plan.
 - Where a young person asks for a review of their plan.
- 4.18. Each local authority will need to have a policy about how reviews for relevant and former relevant young people will be chaired.
- 4.19. The young person must be engaged in making the arrangements about how their pathway plan is to be reviewed. Young people may suggest that some key professionals are not invited to their review meeting, and, if so, these wishes should generally be respected. However, where professionals not invited to a review are making an important contribution to the pathway plan, they would still have to be consulted.
- 4.20. Young people might be encouraged to take increasing responsibility for the review of their personal pathway plan and it will be good practice, if the young person wishes, to support them so that they chair their own pathway plan reviews with support from the chairperson, if appropriate.

Access to Records

- 4.21. Over the course of their life time, people who have spent all or part of their childhood and adolescence in local authority care may want to access information about this period in their lives. There can be a range of reasons why people who have left care want to do this, including curiosity about why they came into care; what happened and when; a need to make sense of difficult memories and life events; to clarify disparate explanations; a desire to trace family members; seeking medical information in reference to hereditary illness/disease and also to obtain photos/certificates.
- 4.22. The relevant legislation for accessing personal information (by making a Subject Access Request) is the Data Protection Act 1998 (DPA). The DPA is an enabling framework allowing people to have access to personal information held about them and should not be misunderstood and applied as a legal barrier

preventing an individual from having this information. Guidance on this area can be found at:

http://ico.org.uk/Global/fags/~//media/documents/library/Data_Protection/Detail_d_specialist_guides/subject-access-code-of-practice.pdf

- 4.23. Regulation 5(3) of the Care Leavers Regulations requires that the responsible authority keep a written record of the information obtained during an assessment; of the deliberations of any meeting held in connection with any aspect of an assessment; of the identity of the people whose views were sought for the purposes of the assessment; and the outcome of the assessment.
- 4.24. Regulation 6(4) of the Care Leavers Regulations requires that the pathway plan must be recorded in writing; regulation 4(3) requires that the responsible authority keep a written record of the child's views; and regulation 7(5) requires that the results of any review are recorded in writing.
- 4.25. Regulation 10 establishes a duty to maintain a case record which should include any assessment of needs, any pathway plan, and any review of a pathway plan.
- 4.26. It is important that people who have spent time in care receive comprehensive information about their family background and time in care to enable them to make informed decisions about their lives. Statutory guidance underlines the principles and processes that should be in place in response to requests for access to care records.
- 4.27. Although care leaver support extends to age 25, legislation requires that a child's case record must be kept until the 75th anniversary of his/her date of birth. We would therefore expect the principles of good practice on accessing records to apply to any care leaver regardless of their age. For the purposes of this section, the term care leaver denotes a person who is no longer looked after by the local authority.
- 4.28. It is important that local authorities have processes in place for the recording and storing of information in care and pathway plans. Some consistent messages from looked after children and care leavers about what they want when accessing their records include:
 - Good quality records to be kept by local authorities;
 - Guidance given to care leavers about how they can access their care records with publically accessible relevant policy, procedures and application form;
 - Local authorities responding quickly to formal requests for access to care records and to be told without delay if records are mislaid or no longer exist;
 - Sensitivity and support provided during the access to records process;
 - Understanding by front line staff of the importance to care leavers about knowing what is in the records especially concerning family background, family members, time in care and decisions made;

- The importance of establishing with the care leaver what they already know about their history and connections to ensure crucial family information and childhood experiences are not redacted. Where there are redactions in the records, clear explanations given as to the reasons for these.

Values and principles

Care leavers' needs

- Care leavers have a fundamental right to access information that affects their lives, and the services that are available to enable them to make informed decisions;
- Local authorities need to have clearly written policies and procedures, kept under constant review and regularly updated.

Support Services and Standards

- Local authorities should publicise their access to records policy, with clear information about how care leavers can apply for their records and access support services;
- Local authorities should provide services that consider the welfare of the care leaver, taking into account the implications of decisions and actions for the care leaver and anyone else involved;
- Systems should be in place within the local authority to ensure that service users can submit feedback. Care leavers should be informed about details of the authority's complaints procedure, and what help and advice the Information Commissioner's Office (ICO), the regulator for data protection in the UK, can provide;
- User feedback, up-to-date knowledge of research and the available accumulated evidence and experience of best practice should inform services, policy and procedures;
- The effectiveness of the service should be monitored and evaluated taking account of care leavers' views. Their experiences, both positive and negative, can help in improving the services offered;
- Local authorities should ensure that all staff involved in providing services are suitably qualified and supervised with access to appropriate training
- Decision-making must be an agency function, not an individual responsibility. However, individuals should be trained to make decisions in a practical, helpful manner with support from senior management personnel as necessary
- Local authorities should support the care leaver to locate family members if required and/or sign post them to an agency that offers tracing and intermediary services

- Local authorities need to acknowledge and take account of and respect the individual's circumstances in their service delivery, consistent with the Equality Act 2010. Non-discriminatory policy and processes to meet the different needs and situations of the care leaver should be provided.

Access

- The records that are provided should be legible, coherent and well-ordered and enable the care leaver to understand their family background, reason for being in care and what took place during their period in care;
- Local authorities should respond to requests from a direct descendant of a care leaver if information about family history is being sought;

Pathway Planning

- 4.29. The pathway plan, and the assessment informing it, must provide a full, accurate and meaningful (narrative style) record of the young person's needs with explicit information about their wishes and feelings for their future. Life Story work with each child and young person is essential if they are to understand what has happened in their childhood. This should include photos and other significant memorabilia. A copy of the whole life story work record should be kept securely.
- 4.30. Each young person must have a copy of their pathway plan and understand which professionals have access to it and the arrangements made by the local authority for secure filing and storage. Similarly, where other agencies have a copy of their contribution to the plan, then the responsible authority must assure itself that the agency understands their responsibility to maintain confidentiality and make arrangements for secure storage of documents containing personal information about care leavers. Authorities need to ensure that they have their own data protection policies in place and satisfy themselves that they are complying with the Data Protection Act when processing personal information.
- 4.31. Where young people have complex needs and a range of agencies are involved in supporting their pathway plan, it may be helpful to agree arrangements for information sharing at a multi-agency meeting to confirm or to review the pathway plan.

Responding to the request for information

- 4.32. Requests for access to care files must be made in writing and, if necessary, the care leaver should be supported to do so. When an application has been received from a care leaver, it is important that the request is acknowledged promptly and in writing, or other appropriate forms of communication if required. The care leaver should be informed about the process and procedure,

timescales for dealing with such requests and the services that the authority is able to provide.

- 4.33. An acknowledgement should be sent to the care leaver within ten working days confirming that records exist. If the authority knows that the care records do not exist, there should be no delay informing the care leaver. The letter should also indicate when they are likely to receive information from the care records and that:
- The local authority will locate all existing records relating to the care leaver, including registers from children's homes;
 - Under data protection legislation, a local authority has a statutory duty to respond to a request for personal data (i.e. a subject access request) within 40 calendar days, providing the information requested. If the response takes longer, the authority may be in breach of the DPA;
 - If the local authority is not able to meet this requirement, this should be explained to the care leaver, giving reasons and the timescale when the records will be available;
 - The care leaver will need to produce proof of their identity before the organisation can disclose any personal information however, if the person is already known the proof of formal ID is not required;
 - If the records cannot be located, the care leaver needs to be informed as soon as possible with information about the steps that will be taken to try to locate them. If records have been transferred to another local authority, perhaps as the result of boundary changes, the individual should be put in touch with the relevant organisation if this can be done.

When records have been destroyed or mislaid

- 4.34. Sometimes, organisations may not have retained records relating to all the children who have been in their care and there will be situations where the care leaver has to be informed that no records exist due to having been destroyed or mislaid. The distress this may cause should not be underestimated. It may have taken the care leaver a lot of courage to apply for information and it can then be deeply upsetting and frustrating when they are told that records have been destroyed or mislaid. A prompt response informing the care leaver of this will reduce the harm caused. It is also important in these circumstances to assist the care leaver to locate other information and registers that may be available, such as, health and education records, which may help answer some of the questions the person may have. If records have been destroyed or mislaid the care leaver should be informed of the searches the local authority intends to make and how long this is likely to take.

Contact with care leavers

4.35. Following the Subject Access Request, it is important the case worker on behalf of the Data Controller has telephone or direct contact with the care leaver to introduce themselves and explain the process. It provides an opportunity for the care leaver to discuss what they are hoping to obtain from their records, how s/he would like these to be shared and what they already know about their family and history. As the DPA is an enabling Act this phone call will ensure no unnecessary redactions are made based on information already known about significant others. The case worker can also offer and identify what support the care leaver would like to receive. The care leaver should be assured that s/he will receive comprehensive information about their family background and time in care including information already known to them. It is important to offer to telephone the care leaver after they have received and read their records and to inform them that the case worker is available to try and answer any questions or concerns they may have.

Monitoring and Quality Assuring

- 4.36. The local authority should ensure that their looked after children and care leavers are aware of the authority's complaints process so that they can log their concerns when they have not been provided with an appropriate service.
- 4.37. Children in Care Councils should undertake on-going reviews of how their local authority provides this service to their looked after children and care leavers of all ages and report back to senior management and corporate parenting boards with their findings.

Keeping in touch

- 4.38. The responsible authority must continue to keep in touch with the young person. This contact should take place as specified in the pathway plan and at least within the specified intervals (see para. 3.38). As with relevant young people, it will be necessary for some visits to take place at the accommodation where the young person is living, so that the PA can assess whether their accommodation remains suitable. Keeping in touch between visits might involve a range of communication methods, for example: email, phone and text message contact.
- 4.39. It will of course be important that the responsible authority respects the privacy of a young adult and their right to decline support. However, the responsible authority will remain under a duty to attempt to remain in contact with a young person in the same way that a reasonable parent might try to resume contact with an estranged adult child. The best guarantee to maintain contact with care leavers who have reached legal adulthood is for their PA to have established a positive and meaningful relationship with them. Individual local authorities as

good corporate parents will need to develop services that are flexible to the needs of young care leavers that ensure they remain engaged.

Chapter 5: Education, training and employment

Planning for education, training and careers

- 5.1. The young person's Personal Education Plan and care plan should already include information about their career aspirations and ambitions. This should be developed as part of the pathway planning process. Care leavers should be offered work experience and other opportunities to allow them to test their career aspirations and needs.
- 5.2. Alongside these opportunities they must also be provided with access to high quality information, advice and guidance to inform their plans in order to progress into continuing education, training or employment. How this will be met should be included in the pathway plan. This career planning support should help young people recognise the relevance of their studies to their future career and life chances and should encourage young people to reflect regularly on their skills, strengths and aspirations.
- 5.3. The quality of the support provided to the young person aimed at ensuring they succeed in education and make progress towards their preferred career pathway, should be considered as part of the process of reviewing care or pathway plans. The quality of the local authority's care and pathway planning and the support provided to the young person from their carers, school, college and PA will be the key to their being able to go on to participate in further or higher education.
- 5.4. Local authorities should make sure that they have policies and processes in place to support every care leaver undertaking apprenticeships, traineeships, vocational courses or employment. These policies will need to take into account the universal financial support that the young person will receive and allow for the local authority to assess whether the young person requires any additional financial contribution from the authority, so that they can benefit fully from taking part in a broad range of training opportunities or employment.
- 5.5. Joint work with Integrated Youth Services/Connexions and Careers Advisers is vital so that responsible authorities make sure that young people are fully aware of the options and entitlements available to them. Local authorities should use career planning tools to inform young people's pathway plans.
- 5.6. Young people require a great deal of stability when undertaking education activities. The local authority should not move a young person participating in a course of education during the academic year after their 18th birthday.
- 5.7. Early planning is vital when they are considering attending university, particularly where they are moving away from their home area and therefore placement arrangements from their 18th birthday to the point they commence higher education courses must be addressed and agreed well in advance of

their 18th birthday. Arrangements may need to be made for young people to remain with the families who have fostered them beyond their 18th birthday; and plans need to be made for the vacation breaks.

- 5.8. Young people will need to know what practical and financial support they will receive from their local authorities and therefore the authority should have a written policy they give to looked after children and care leavers detailing the financial support that they will receive when they participate in any further or higher education. Information about the financial support each care leaver can expect, as set out in their responsible authority's policy, should be complemented by information setting out what support the young person will be entitled to from the universal student funding sources.
- 5.9. Pathway planning must continue for all former relevant children in any continuing education or training. As many young people at university will be living away from their home area and previous carers and support networks, the pathway plan for each individual child must set out what practical support they can expect from their local authority. These arrangements should include the level and frequency of contact with their PA. The plan should specify arrangements for meeting the young person in the area where they are attending university. It may be desirable to involve one specified member of university staff (perhaps the care leaver's personal tutor) in some of these meetings, so that the higher education institution is firmly engaged with the pathway planning process and to make sure that the care leavers concerned are getting every possible support as they study for their degree and achieve their potential.
- 5.10. Pathway plans must set out accommodation arrangements, including financial arrangements during term time, short vacations and the long vacation during the summer. Where young people are unable to return to their former placements then they must be provided with a stable alternative accommodation best suited to their personal circumstances. For some young people this may involve returning to accommodation in their responsible authority's area; others may prefer to remain in the area of their university and many universities now provide 52 week accommodation. Regardless of which option is required, early planning is essential.
- 5.11. Where young people are continuing with an education or training course beyond their 21st birthday, the practical and financial support being provided must continue to be set out in their pathway plan.
- 5.12. Given the specialist knowledge that is likely to be needed to maximise support for care leavers at university, local authorities may wish to consider developing a dedicated PA role for this group of young people. The role could be used to provide the expertise and knowledge needed to both make sure that young people are visited by their responsible authority and that they receive

appropriate support and academic advice from the higher education institution that they have joined.

Care leavers from overseas

- 5.13. Young people who have lived in the United Kingdom for more than 3 years are usually treated as ‘home students’ and will not have to pay overseas student fees if they attend a higher education course.

Post graduate courses

- 5.14. In addition to providing support with first degree courses, local authorities will want to set out how they will support young people to undertake post graduate courses. Following a needs assessment, local authorities may consider making a contribution to post graduate courses and also assisting young people to identify financial support and resources to enable them to undertake post graduate study.

Higher Education Bursary

- 5.15. The 2008 Act amended section 23C of the 1989 Act to introduce a requirement for local authorities to pay a Higher Education Bursary to former relevant children who pursue a higher education course in accordance with their pathway plan. The new duty is in addition to their duty to provide assistance for education and training under section 23C(4) of the 1989 Act. The Children Act 1989 (Higher Education Bursary) (England) Regulations 2009¹¹ deal with the payment arrangements which local authorities need to put in place to former relevant children who pursue such a course of higher education. The regulations set the amount of the one-off higher education bursary at £2,000. They prescribe the meaning of higher education for the purpose of determining eligibility for the bursary and set out the broad framework for arrangements in relation to the timing of payments and the circumstances in which payments may be withheld or recovered by a local authority.

Apprenticeships

- 5.16. Authorities should work with their partners to address the employment, education and training needs of care leavers in their areas. Pathway plans should outline how the local authority will improve the employability of their care leavers. They should ensure that care leavers are aware of, and get access to

¹¹ S.I. 2009/2274

work experience, apprenticeship and other training and employment opportunities.

Chapter 6: Care leavers who require additional specialist support

(a) Disabled young people making the transition to adult services

Introduction

- 6.1. Disabled young people will face many of the same experiences and challenges as other care leavers. However, the transition to adulthood for disabled young people who are looked after may be particularly challenging. They will often experience different professional languages, styles, expectations and cultures as they make the transition from support by children's services to support from adult health and social care services. Disabled young people also have needs relating to their health, social care and education, and these may vary widely depending on the nature of their conditions.
- 6.2. The definitions in the 1989 Act and legislation governing provision for disabled adults often differ and have differing thresholds for eligibility for services.
- 6.3. Care leavers with complex needs, including those with disabilities, may transfer direct to adult services and the pathway plan will need to ensure that this transition is seamless and supported¹². Local authority responsibilities towards disabled care leavers are the same as for all other care leavers¹³. Because of their additional needs, some young people may draw on a number of services, receive support from several professionals and have multiple plans¹⁴. The local authority must ensure that these processes are streamlined as much as possible and roles and responsibilities discussed with the young person and their carer(s).

Person centred planning

- 6.4. Each disabled young person will have their own individual aspirations, hopes, needs and wants. Whilst different services will have their own eligibility and access criteria, they must work together to adopt a holistic approach based on assessment of individual needs informed by each young person's wishes and feelings.

¹² *Statutory guidance on promoting the health and wellbeing of looked after children* (2009)
<https://www.gov.uk/government/publications/promoting-the-health-and-wellbeing-of-looked-after-children>

¹³ *Future Positive* (2006) provides a comprehensive resource guide for people from all agencies working with disabled care leavers: <https://www.gov.uk/government/publications/future-positive-a-resource-guide-for-people-working-with-disabled-care-leavers>

¹⁴ *National Framework for NHS Continuing Healthcare* (November 2012 (Revised))
<https://www.gov.uk/government/publications/national-framework-for-nhs-continuing-healthcare-and-nhs-funded-nursing-care>

- 6.5. Person centred planning will ensure that planning for disabled young people to make the transition to adulthood is focused on what is important to the young person for the future and what needs to be in place to ensure that they receive the support to achieve their goals. The young person must be kept at the centre with family members, carers and friends being partners in supporting the young person to achieve their potential. A shared commitment should be established to ensure that the young person's views are listened to and ways are found to remove any organisational barriers that might limit personal development and choices. Young disabled people leaving care should not simply be placed in pre-existing services and expected to adjust. Services should, in particular, be responsive to the needs and preferences of a disabled young person in relation to such issues as housing, social networks and isolation, education, employment and leisure.
- 6.6. PAs and others working with disabled care leavers should be given training to ensure that they are equipped to communicate effectively with them, including those with high communication needs. Trained advocates should also be available to ensure that young people's views are heard and taken into account.

Joint protocols

- 6.7. For transition to become a positive experience for young people and their families, it is necessary for all agencies to work together and understand each other's roles, responsibilities, professional frame of reference and legal duties within the transition process. To ensure that this happens for disabled care leavers it is essential that specific protocols and agreements are drawn up in each local authority area, with the participation of all agencies. This will include children's and adult social care, children's and adult health, education, housing, youth offending, information, advice and guidance services, supported employment services and leisure services.
- 6.8. Strategic planning approaches will need to be reflected at an operational level through protocols. These should identify the timing and mechanisms by which key professionals come together with young people to help to identify their needs and to plan individualised support packages. In order to avoid duplication, wherever possible, protocols will need to identify how the pathway planning process relates to other frameworks for planning the transition to adulthood for young disabled care leavers, such as those for special educational needs.
- 6.9. Young people generally transfer from child to adult health services at 16, from child to adult social care services at 18, from school-based education to further education between 16 and 19, and to higher education from 18. However, there may be exceptions to these general arrangements. Child and Adolescent Mental Health Services usually provide services up to age 18, and young people with a statement of special educational needs may not transfer to support from adult social care services until the end of school year 13, at age 19. Joint protocols

must reflect the fact that age-related policies of different agencies do not fit easily with the realities of the transition process for young people leaving care, and should allow for a flexible approach which recognises the corporate responsibility towards them. Where it is likely that a care leaver will require continuing support from adult services, it will be good practice to make a formal referral as early as possible from age 16, so that eligibility for this support is established in time for their 18th birthday. Protocols should clarify roles and funding responsibilities of different agencies. The use of pooled budgets across agencies may help remove some of the barriers arising from potential differences in eligibility criteria of different services provided under different legislation.

- 6.10. Tracking systems based on the transition arrangements associated with a young person's statement of special educational needs should be in place to ensure that social care, health, education and other relevant agencies are aware of who are the potential users of adult services from age 14 upwards.

Young people living out of area

- 6.11. Where disabled young people in care have been placed out of the responsible authority's area, the care authority and education authority retain responsibility for the child. The Primary Care Trust (PCT) where the young person is registered with a General Practitioner (GP) will be responsible for day to day health needs, but the PCT for the originating care authority will retain responsibility for commissioning any secondary health services. This is set out in Department of Health guidance, *Who Pays? Establishing the Responsible Commissioner* (2007)¹⁵.
- 6.12. As care leavers living out of area turn 18, responsibility for provision of services may change. The responsible local authority will need to ensure that continued leaving care support is provided under the provision in the 1989 Act requiring responsible authorities to continue to support care leavers. However, any adult social care provision will be the responsibility of the local authority where the child is ordinarily resident within the meaning of the National Assistance Act 1948. Where the young person's disability was the primary reason for their placement outside the area of the responsible authority, the same authority may remain responsible for the provision of adult social care services even if the young person remains living in another area. Depending on the circumstances of the individual, there may be situations in which the young person's ordinary residence will have become the local authority in which they were placed and where they have been

¹⁵ *Who Pays? Establishing the Responsible Commissioner* (2007):
http://webarchive.nationalarchives.gov.uk/20130107105354/http://dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_126387.pdf

living and settled for some years¹⁶. This will primarily be affected by the young person's 'mental capacity' to make a choice regarding the area in which they live.

- 6.13. Relevant agencies providing health and adult social care services should have been involved in transition planning in the years leading up to the young person's 18th birthday in order to ensure a smooth transition.

Adult social care provision

- 6.14. Eligibility for adult social care provision is governed by the Department of Health Guidance on *Eligibility Criteria for Adult Social Care* (2010)¹⁷. Local authorities may provide community care services to individual adults with needs arising from physical, sensory, learning or cognitive disabilities and impairments, or from mental health difficulties. Increasingly, support is self-directed and delivered through personal budgets, following self-assessment and person-centred support planning. Young people moving into adulthood and the people close to them need high quality, accessible information about personalisation from the age of 14 so that their planning can be within the context of knowing the resources that will be available for their support.
- 6.15. *Eligibility Criteria for Adult Social Care* requires local authorities to have in place arrangements to identify individuals who may need a variety of services as they move from youth to adulthood. When undertaking assessments and re-assessments, local authorities are required to ensure that marked changes in the type, level and source of support should be managed very carefully as these are usually not in the best interests of people using services.
- 6.16. Adult social care services have policies regarding charging arrangements and in applying these local authorities should take account of their corporate parenting responsibilities towards care leavers. Care leavers who transfer to adult social care services should be made aware of any charging policy and the impact on any financial support or arrangements.
- 6.17. Where disabled young people meet the eligibility criteria for adult placement schemes, the possibility of their former foster carers becoming their adult placement carers should be considered, so that both the young person and foster carers transfer to an adult social care service. The responsible local authority will need to ensure that they continue to provide support in accordance with the requirements of the Children (Leaving Care) Act 2000. The responsible local

¹⁶ For information about the determination of "ordinary residence" refer to:

<https://www.gov.uk/government/collections/ordinary-residence-pages#ordinary-residence-guidance>

¹⁷ *Prioritising need in the context of Putting People First: a whole system approach to eligibility for social care - guidance on eligibility criteria for adult social care* (2010):

http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/@ps/documents/digitalasset/dh_113155.pdf

authority will also need to ensure that they provide support in accordance with the Carers and Disabled Children Act 2000 and Carers (Equal Opportunities) Act 2004 combined policy guidance¹⁸. The guidance requires councils to inform carers of their right to an assessment which takes into account their outside interests (work, study, leisure) and provide services to them directly and/or support carers by providing them with a direct payment to enable them to purchase carers' services for themselves.

- 6.18. Where it is likely that a young person leaving care will need services into adulthood, an adult services worker should contribute to pathway planning from age 16 onwards, and the change of lead worker from one service to the other should be determined within the planning process taking account of the young person's wishes and assessed needs.
- 6.19. Where disabled and vulnerable care leavers transfer to, and become the responsibility of, Adult Care Services, local authorities' leaving care teams and PAs should ensure that young people do not lose out on any leaving care entitlements. Care leavers should not be disadvantaged financially by transferring to a different service. Pathway plans and transition plans should be used to evidence young people's financial abilities and to provide a financial framework that sets out the allowances and benefits young people are entitled to, and who will assist them to manage these allowances and benefits.

(b) Unaccompanied asylum seeking children (UASC)

- 6.20. Unaccompanied asylum seeking children (UASC) making the transition from care to adulthood have both a leaving care status and an immigration status in addition to their placement and accommodation, education, health, financial, religious and cultural needs. Planning transition to adulthood for UASC is a particularly complex process that needs to address the young people's care needs in the context of wider asylum and immigration legislation and how these needs change over time.
- 6.21. Pathway planning to support a UASC's transition to adulthood should cover all areas that would be addressed within all young people's plans as well as any additional needs arising from their specific immigration issues. Planning may initially have to be based around short term achievable goals whilst entitlement to remain in the UK is being determined.
- 6.22. Pathway planning for the majority of UASC who do not have permanent immigration status should initially take a dual or triple planning perspective, which,

¹⁸ This guidance, issued under section 7(1) of the Local Authority Social Services Act 1970, sets out the Government's view of the issues for local authorities in carrying out their functions under the Carers and Disabled Children Act 2000 and the Carers (Equal Opportunities) Act 2004. The Acts affect carers who provide or intend to provide a substantial amount of care on a regular basis for another individual aged 18 or over, and people with a parental responsibility for a disabled child who provide or intend to provide a substantial amount of care on a regular basis for the child.

over time should be refined as the young person's immigration status is resolved. Planning may be based on:

- a transitional plan during the period of uncertainty when the young person is in the United Kingdom without permanent immigration status;
- longer term perspective plan in the United Kingdom should the young person be granted long term permission to stay (for example through the grant of Refugee Status); or
- a return to their country of origin at any appropriate point or at the end of the immigration consideration process, should that be necessary because the young person decides to leave the UK or is required to do so.

6.23. Claiming asylum can be a complex process and social workers/PAs should work with the young person's legal representative and the dedicated case owner at the UK Border Agency to ensure that the young person understands the process of claiming asylum, the possible outcomes and to provide them with necessary support.

6.24. Possible outcomes of the asylum claim:

1. Granted Refugee Status (i.e. granted asylum). Leave to remain for five years.
2. Refused asylum but granted Humanitarian Protection (HP). Leave to remain for five years. HP is most commonly granted when the person is at some risk of 'ill-treatment' in the particular country they left but does not meet the criteria of the Refugee Convention. This is a rare category for UASC.
3. Refused asylum but granted Discretionary Leave (DL). This is normally for three years or until the age of 17.5, whichever comes first. DL is granted if at the time of the decision adequate care and reception arrangements are not in place in the country of origin (i.e. a return cannot be effected safely).
4. Refused asylum with no grant of leave. In this case the UASC must return to his/her country of origin.

6.25. Those found to require Refugee Status or, more rarely Humanitarian Protection, are usually granted leave to remain for five years. Although it is not guaranteed that further leave to remain will be granted at the end of the five year period, it is certainly a strong likelihood and care and pathway planning should primarily focus on longer term residence in the United Kingdom, in the same way as for any other care leaver.

6.26. Young people who are granted Discretionary Leave have the opportunity to apply for an extension to this Leave after three years or on reaching 17.5.

6.27. Planning for a return home may be difficult, but care and pathway plans should include contingencies for durable and best interest plans for UASC and young people who are likely to have to return to their country of origin. Pathway plans should always consider the implications for the young person if their application to extend their leave to remain, or their appeal against refusal of that application, is dismissed. In such circumstances the person will become unlawfully present in the United Kingdom and be expected to make plans for return to the country of origin. The UK Border Agency is under a statutory duty to have regard to the need to safeguard and promote the welfare of children and relevant personal data may be shared with the Agency in order to help it discharge its duty. The management of return arrangements will require a collaborative approach with the Agency in order to ensure they take place as sensitively and humanely as possible.

Access to public funds, welfare benefits and other public funds

6.28. Financial support for looked after UASC should reflect their needs as looked after young people (eligible care leavers) and their immigration needs. Financial policies should highlight their entitlements and how their immigration status may impact on current and future entitlements.

6.29. Pathway plans should address funding arrangements for education and training and how a young person's immigration status may limit education, training and employment opportunities.

6.30. Pathway plans should always consider the implications for the young people if their application to extend their leave to remain is refused, or their appeal against refusal of that application is dismissed. In such circumstances the person may become ineligible for further support and assistance because of the effect of Schedule 3 of the Nationality, Immigration and Asylum Act 2002.

(c) Care leavers in the youth justice system

6.31. Whilst local authorities have primary responsibility for care leavers, they are entitled to expect the support of partner agencies, including Youth Offending Teams (YOTs) for care leavers under the age of 18 and Probation Services for those over 18.

6.32. The responsible authority must involve the YOT and the Probation Service, and local providers of secure provision, in drawing up its written statement of policies and guides on leaving care and aftercare services. It is essential that local authority strategic and operational leaving care policies include a comprehensive response to care leavers who are involved with criminal justice services and/or in custody.

- 6.33. Local authority leaving care services must ensure that they establish constructive working relationships with local criminal justice services. This will help ensure that in each individual case, the right links are made between pathway planning and plans to divert young people from offending, to support them in custody or to supervise them in the community on release from custody.

Response to offending behaviour

- 6.34. If a relevant care leaver is arrested, the local authority should ensure that the young person has the support of an appropriate adult and/or solicitor with the necessary knowledge and skills whilst at the police station.
- 6.35. There will be circumstances when a care leaver is charged with an offence and it is important that they are not disadvantaged by a refusal of bail because of their status. The court needs to have confidence that the young person will be supported to adhere to any conditions of bail and is living in suitable accommodation. Local authorities, working together with the YOT and Probation Service, should develop suitable bail support programmes and specialist accommodation schemes to ensure that there are viable alternatives to a remand to secure accommodation.
- 6.36. It will be essential that continuing leaving care support is available to relevant or former relevant children if they are convicted and sentenced to a community sentence, or imprisonment. In fact, this group of care leavers will be especially vulnerable and will require carefully planned and well-focused support from their responsible authority.
- 6.37. If a care leaver is convicted of an offence, the PA should provide information to the worker responsible for completing the criminal justice risk assessment (Asset for under 18s, OASys for over 18s). They should also provide relevant information for the pre-sentence report (PSR) which will be used by the court to determine the appropriate sentence disposal. Explicit consideration should be given to factors that will make the young person particularly vulnerable if sentenced to custody and should be included in the report.

Care leavers in custody

- 6.38. Regulation 3(2) of the Care Leavers Regulations prescribes a further category of relevant child for the purposes of section 23A(3) of the 1989 Act – any child aged 16 or 17 who: (a) at the time **when he attains the age of 16** is detained or in hospital; and (b) immediately before being detained or admitted to hospital had been looked after by a local authority for a period of at least 13 weeks, which began after he reached the age of 14, is a “relevant child” entitled to continuing leaving care support.

- 6.39. For the purposes of this regulation, “detained” means detained in a secure training centre, secure children’s home, young offender institution or any other institution pursuant to an order of a court¹⁹.
- 6.40. Young people who have served a custodial sentence will be subject to supervision following their release. For young people under the age of 18 or those who are completing a Detention and Training Order (DTO), this supervision will be undertaken by the YOT. For those over 18 who have served a Section 90, 91, 226 or 228 sentence for a serious crime²⁰, supervision will be undertaken by the Probation Service. The YOT or the Probation Service will be concerned to ensure that these young people do not re-offend. In trying to achieve this aim, they should not only address young people’s offending behaviour and its consequences, but also their development into capable resilient and responsible adults.
- 6.41. Where a relevant or former relevant child enters custody, pathway planning must continue. The young person must be visited on a regular basis and it is good practice for the first visit to take place within ten working days of their being placed. The role must not be fulfilled by a YOT worker. The establishment should facilitate the visits, and PAs should be afforded the same status as legal visitors. The responsible authority must liaise with criminal justice services to support the young person emotionally, practically and financially whilst in custody. All young people will require the responsible authority to contribute to the plan for their resettlement on release. It will be good practice wherever possible to carry out a review of the pathway plan at least a month before release in order to give sufficient time for pre-release planning. For a relevant child, it should be exceptional for a review not to take place.
- 6.42. Plans should be in place so that the young person is able to move into suitable accommodation, with the right kind of support, on release from custody.

¹⁹ Once section 23ZA of the Children Act 1989 is implemented fully, the Children Act 1989 (Visits to Former Looked After Children in Detention) (England) Regulations will provide that those looked after children who do not become “relevant children” on entering custody and therefore will not be entitled to leaving care support (since they are children aged 16 or 17 who have been looked after for less than 13 weeks since the age of 14 (perhaps because they were remanded into local authority accommodation immediately prior to sentence); or, because they will leave custody before their 16th birthday), will be entitled to visits from the local authority that formerly looked after them.

²⁰ Section 90/91 of the Powers of the Criminal Courts (Sentencing) Act 2000 allows the Crown Court to impose longer sentences where a young person is convicted for a serious crime. If a young person is convicted of murder they will receive a mandatory life sentence under S90 with a specified minimum term. If they are convicted of an offence for which an adult could receive at least 14 years in custody, they may be sentenced under S91 and the length of the sentence can be anywhere up to the adult maximum for the same offence. Section 226 of the Criminal Justice Act 2003 allows young people to be detained for an indeterminate period, but at least two years, in order to protect the public. Section 228 of the same Act allows an extended sentence to be passed for certain violent and sexual crimes, and the minimum period of detention is four years.

6.43. Where a care leaver is remanded or sentenced to custody, the following steps are likely to be necessary to ensure that they can access suitable accommodation on their release:

- Immediate liaison with the young person's accommodation provider to inform them and discuss options.
- Liaison with the local authority's housing advice/homelessness service to obtain expert advice on the young person's options.
- If the young person is remanded or serving a short sentence, consideration should be given to retaining the young person's accommodation placement for their return on release.
- If this is not possible or appropriate, steps should be taken promptly to give up the accommodation according to the requirements in the tenancy or license agreement and collect and store the young person's possessions. This will prevent a build-up of rent arrears and/or assumed abandonment by the landlord, both of which may lead to the young person's eviction in their absence, resulting in more limited housing options on their release and an amassing of debt.
- Where the young person's previous accommodation has been given up or lost, alternative accommodation should be identified and be available to the young person on release. It will only be possible to plan for care leavers' wider needs, including planning the support they'll need to divert them from further offending, if a stable base has been secured for them.

6.44. As soon as possible, and (ideally) no later than 14 days before release, a care leaver must know:

- who is collecting them;
- where they will be living;
- the reporting arrangements;
- sources of support – including out of hours;
- arrangements for education or employment;
- arrangements for meeting continuing health needs;
- arrangements for financial support;
- when they can expect to see their PA;
- the roles and responsibilities of the respective leaving care and youth offending staff.

6.45. It is essential that there is clarity about who is responsible for each element of the child's plan and the arrangements for communication and enforcement. The local authority should record these arrangements as part of the pathway plan and make copies available to the young person, the supervising YOT officer, the

establishment and other agencies involved with supporting the young person after release, including, wherever appropriate, their family.

Community support

- 6.46. The leaving care service of the responsible authority must remain a presence in the young person's life during the period of supervision by the YOT/Probation Service. Their role is different and more extensive than that of the supervising YOT or probation officer, whose involvement will be determined by the length of any order and the care leaver's offending behaviour rather than their wider needs.
- 6.47. Young people are vulnerable in the early days after release and need considerable help, both emotionally and practically, to:
- readjust to living in open conditions;
 - meet the requirements for reporting and surveillance;
 - sort out finances;
 - settle into accommodation;
 - negotiate work or college;
 - re-establish relationships with family and friends;
 - avoid situations where offending may occur.
- 6.48. It is good practice to have some joint appointments with the care leavers, supervising YOT/probation officer and the allocated PA, so that information is shared and the young person receives an integrated service.
- 6.49. The PA and supervising YOT/probation officer should keep each other informed of significant events, including any changes in service delivery or plans. Whilst the care leaver continues to be supervised by criminal justice services, it will be good practice to include the supervising YOT/probation officer in reviews of the pathway plan.
- 6.50. It will be important to involve the young person in deciding who should participate in their review. However, should they decide to exclude their supervising YOT/probation officer, their PA would need to understand and agree their reasons for this, especially where the young person is a relevant child and has not yet reached legal adulthood.

Chapter 7: Planning and arranging suitable accommodation for the transition to independent living

Introduction

7.1. The top ten most concerning factors about leaving care, reported by young people to the Children's Rights Director for the 2006 report²¹, all relate to accommodation and young peoples' ability to cope with independent living:

1. Being on your own.
2. Not being able to cope.
3. Not being able to get help when you most need it.
4. Not having enough money to live on.
5. Cleaning up after yourself.
6. Leaving care before you're ready.
7. Having nowhere to go/come back to.
8. Being put in a 'dodgy' place.
9. Having nowhere to live.
10. Not being settled anywhere and having to keep moving around.

7.2. When young people leave their care placement the local authority must ensure that their new home is suitable for their needs and linked to their wider plans and aspirations, for example located near their education or work. Moving directly from a care placement to living independently will often be too big a step for young people. It will therefore be good practice for local authorities to commission a range of semi-independent and independent²² living options with appropriate support, for example supported accommodation schemes, foyers, supported

²¹ *Young People's Views on Leaving Care* – report of the Children's Rights Director (CSCI 2006).
<http://www.ofsted.gov.uk/resources/young-peoples-views-leaving-care>

²² For the purposes of this guidance, 'semi-independent' accommodation refers to accommodation which is not regulated under the Care Standards Act 2000 and which combines suitable accommodation with dedicated support attached to the property. Examples of semi-independent accommodation include building-based supported accommodation, Foyers and supported lodgings. Independent accommodation refers to accommodation where young people can live independently without support, for example a general needs local authority or housing association property or a property (whether or not shared with other tenants) in the private rented sector. Support can be provided to young people living in independent accommodation; this is often termed 'floating support' because it is linked to the client as opposed to the property.

lodgings and access to independent tenancies in the social and private rented sectors with flexible support.

Strategic planning and partnerships

- 7.3. Under section 27 of the 1989 Act, a local authority can ask a range of other authorities, including a housing authority, to assist them in the exercise of their functions in relation to children in need and looked after children under Part 3 of the 1989 Act. The other authority must comply to the extent that the request is compatible with their own statutory duties and other obligations and would not unduly prejudice the discharge of their own functions.
- 7.4. Children's Services will need to work with housing strategy, housing options, housing related support functions and other partners to secure a range of suitable housing and support options for young people leaving care and achieve the following outcomes for young people:
- **Planned moves towards independence**, using clear and flexible accommodation and support pathways, for every care leaver;
 - Maintained or developed **family support** where safe and appropriate;
 - **On-going support** to ensure young people are able to maintain their accommodation, and **early intervention** if things start to go wrong;
 - A **personalised support package**, based on a full assessment of needs and involving all appropriate agencies, to help young people achieve their aspirations and make a positive transition to adulthood;
 - **Access to safe, secure and appropriate emergency accommodation** if, exceptionally, accommodation arrangements do break down, followed by quick re-entry into more settled housing and support services.
- 7.5. Children's Services should be linked to the local authorities' strategic housing function. The anticipated accommodation and support needs of young people leaving care should be considered, alongside those of other young people in the area, in the following strategies and plans (where present):
- Housing and Homelessness Strategies;
 - Supporting People or Housing Related Support Strategies.
- 7.6. Children's Services should supply data and information on the numbers and anticipated needs of young people due to leave care over the life of strategies and plans, alongside more qualitative needs analysis involving young people and key stakeholders, to inform these strategies and plans.

Commissioning housing and support services

- 7.7. Links should be established between children's services commissioning arrangements and those for housing related support services to support the provision of a range of accommodation and support options based on identified needs. Partners should aim to ensure the effective use of joint resources for planning and commissioning accommodation and support services for young people including care leavers. Services planned and secured jointly might include supported accommodation projects, floating support services, foyers, supported lodgings, specialist provision and 'Staying Put' options.
- 7.8. Further guidance on working with housing related support commissioners can be found in the statutory guidance *Securing Sufficient Accommodation for Looked After Children*²³.

Joint protocols

- 7.9. Local authorities should set out arrangements for ensuring planned and supportive transitions to independent living in formal agreements between the relevant agencies, referred to in this guidance as joint protocols.
- 7.10. Joint protocols enable partners to understand their roles and engage more effectively in joint working, leading to increased transparency and better outcomes for young people. In recognition of this the Homelessness Code of Guidance 2006 for Local Authorities²⁴ also requires authorities to set out the processes that underpin and enable joint working and information sharing in both unitary and two tier areas. In two tier areas all housing authorities in the county should be party to a joint protocol.
- 7.11. The joint protocol should establish arrangements for the following:
- A shared commitment from Children's Services and Housing Services to adopt a 'corporate parenting' approach for looked after children and care leavers making the transition to adulthood.
 - Clear roles and responsibilities for supporting the transition from care, including the role of the PA.
 - Access for care leavers to the full range of potentially suitable supported accommodation options in the area.

²³ *Securing Sufficient Accommodation for Looked After Children* (2010)

<https://www.gov.uk/government/publications/securing-sufficient-accommodation-for-looked-after-children>

²⁴ *Homelessness Code of Guidance, Department for Communities and Local Government* (July 2006) 4.9, 5.8, 5.17 <https://www.gov.uk/government/publications/homelessness-code-of-guidance-for-councils-july-2006>

- Pathway planning systems that anticipate accommodation needs. They should engage each young person, their PA and housing services staff regarding suitable housing options and any additional support needed, so that the necessary arrangements are in place at the point where the young person is ready to move on from their care placement. Subsequent moves should also be carefully planned.
- Arrangements to offer care leavers in need of social housing reasonable preference on welfare grounds through local housing authority allocations schemes.
- Contingency planning arrangements for when placements are at risk or break down, led by PAs working with accommodation providers, housing options teams and other support services.
- Planned access to accommodation and support for care leavers who will need accommodation on release from custodial institutions
- Ensuring supported transitions to adult services where needed, such as adult social care, adult mental health services, substance misuse services and the Probation Service.

Suitable accommodation

- 7.12. Section 23B of the 1989 Act requires the local authority to provide relevant children with, or maintain them in, suitable accommodation. Bed and Breakfast accommodation is not considered to be suitable other than for very exceptional emergency circumstances. Such placements should be limited to a duration of no more than two working days. Local authorities should ensure that when placing young people in such placements they receive appropriate supervision and contact from the authority.
- 7.13. Regulation 9(2) of the Care Leavers Regulations defines what is meant by **‘Suitable accommodation’**. It is accommodation:
- Which, so far as reasonably practicable, is suitable for the child in light of his needs, including his health needs;
 - In respect of which the responsible authority has satisfied itself as to the character and suitability of the landlord or other provider;
 - Complies with health and safety requirements related to rented accommodation; and
 - In respect of which the responsible authority has, so far as reasonably practicable, taken into account the child’s
 - wishes and feelings; and

- education, training or employment needs.

- 7.14. In deciding whether accommodation is suitable, local authorities must have regard to the matters set out in Schedule 2 to the *Care Leavers Regulations*. This Schedule contains the same requirements as Schedule 6 in the Care Planning Regulations²⁵, so pages 60-66 of the related Volume 2 guidance²⁶ which looks at the factors that must be considered in determining whether accommodation is suitable for individual care leavers, is also relevant.
- 7.15. This Schedule should not be read as a simple checklist. In evaluating the suitability of a specific property a local authority may not be able to satisfy itself that the accommodation is "suitable" on every factor. For example, a property may not be in an ideal location, whilst "affordability" will be influenced by the location and by changes in the young person's financial circumstances.
- 7.16. Leaving care services will need to put arrangements in place for checking suitability before a young person moves into a property. Services should establish good working relationships with local housing and environmental services so they can access advice and support with this task. In practice, the process should allow for decisions to be made at short notice, so that care leavers can obtain properties where, for example, there is competition for the accommodation.
- 7.17. Where checks of an accommodation's suitability identifies the need for improvements to bring the property up to a standard of suitability, then it may be necessary to arrange for these to be made after the property has been obtained for the young person. For example, the authority might assist the young person to decorate or provide funding to improve its security. Likewise young people must be given thorough information about how they can get help if problems occur with their accommodation.
- 7.18. Because of the diverse needs of care leavers and the way in which these will change over time, a range of semi-independent and independent accommodation options for care leavers will be required. These might include:
- **Enabling young people to remain in the accommodation in which they lived whilst being looked after**, e.g. by converting a foster placement to a post-18 arrangement or supported lodgings;
 - **Supported lodgings**, other than with former carers;
 - **Foyers and other supported housing**, combining accommodation with support and opportunities for education, training and employment;
 - **Trainer flats** where young people can 'practice' living more independently without compromising their future housing options;

²⁵ S.I. 2010/959

²⁶ Children Act 1989: care planning, placement and case review

<https://www.gov.uk/government/publications/children-act-1989-care-planning-placement-and-case-review>

- **Specialist accommodation**, for example self-contained accommodation with personal assistance support, or therapeutic placements for young people with specific support needs such as disabilities and mental health difficulties;
- **Independent accommodation** in the social or private rented sectors, with flexible floating support as needed;
- Living with **birth families**.

Accommodation with former foster carers ('staying put' arrangements)

- 7.19. Supporting care leavers to stay with their former foster carers ('staying put' arrangements) will allow them to leave stable and secure homes when they are ready and able to make the transition to independence. It will also help them enter adult life with the same opportunities and life prospects as their peers.
- 7.20. Although local authorities can provide 'staying put' arrangements to any care leaver, a specific duty was placed on local authorities in section 23CZA of the Children Act 1989. This duty places a legal requirement on local authorities to advise, assist and support both the young person and their former foster carers when they wish to stay living together after the former relevant child reaches their 18th birthday.

Terminology

- 7.21. In this section, 'young person' means a former relevant child who was looked after immediately prior to their 18th birthday (as an eligible child). An eligible child is defined in paragraph 19B of Schedule 2 to the Children Act 1989, as aged 16 or 17, still looked after, and has been looked after by a local authority for a period of 13 weeks, or periods amounting in total to 13 weeks, which began after s/he reached 14 and ended after s/he reached 16.
- 7.22. From the age of 18 young people are no longer 'in care' or 'looked after' and therefore fostering arrangements and legislation relating to children placed with foster carers no longer applies. In circumstances where a young person remains with their former foster carer after the age of 18, the arrangement should therefore be deemed as 'remaining with their former foster carer' or a 'staying put' arrangement.
- 7.23. The term 'arrangement' should be used rather than placement; the term placement denotes a situation where the local authority arranges and places a child with a foster carer. Once the child reaches the age of 18 and legal adulthood, the local authority is no longer making a placement, but maintaining a 'staying put' arrangement for the former relevant child.

Background

- 7.24. The benefits of a 'staying put' arrangement for a young person are primarily about extending a familial relationship in which the young person continues to experience security and stability. Young people who are in foster care should be able to benefit from 'staying put' arrangements, regardless of whether they are in education, employment or training (EET) before turning 18. Local authorities should support and encourage the young person to progress in their education or employment but not being in EET should not preclude a young person from benefiting from a 'staying put' arrangement. The opportunity to 'stay put' should apply equally to young people that have been cared for by foster carers from the local authority or independent fostering services.
- 7.25. Building on the secure and stable environment of a 'staying put' arrangement, the local authority, with the former foster carer and young person, should from the outset assess how they will help the young person develop the skills required for independent living once they move on from this arrangement.
- 7.26. Young people should be supported as part of the 'staying put' arrangement to continue to develop a range of skills including:
- Relationships - getting on with neighbours; understanding acceptable behaviour; when and how to communicate with relevant professionals;
 - Emotional Resilience - managing isolation and where to go for support. Building self-esteem;
 - Finance and budgeting - opening a bank account, safe borrowing and managing debt, understanding basic financial products, benefits and welfare reform; budgeting for priority bills, household appliances and everyday shopping on a budget;
 - Cooking - cooking healthily and on a budget; understanding nutrition and its impact on overall health;
 - Managing a home - washing and ironing, cleaning, basic DIY, operating appliances and what is allowed within a tenancy; and
 - Applying for jobs - understanding strengths and areas for personal development; developing job skills, understanding job/volunteering pathways and support available; understanding bursaries and other financial support; where to go for advice; understanding the impact of work on benefits.

Preparation for ceasing to be looked after and moving to a ‘staying put’ arrangement

- 7.27. 19BA of Schedule 2 to the Children Act 1989 makes provision for the planning and preparation for a ‘staying put’ arrangement once the young person turns 16 and becomes an eligible child.
- 7.28. Local authorities should start discussions with the young person and foster carer regarding the option of staying put as early as possible, ideally before the young person reaches the age of 16. If, for example, the permanence plan for the child is long term foster care, the local authority should also discuss the option of the young person staying put once they reach 18. Through the pathway planning process, discussions should take place that take into consideration the wishes and feelings of the young person and the foster carer. The local authority will need to assess whether such an arrangement would meet the needs of the young person once they reach 18 and is consistent with their welfare.
- 7.29. It is important that the local authority listens carefully to the wishes and feelings of the young person. The possibility of a ‘staying put’ arrangement would first of all depend on whether both the young person and foster carer express a wish to enter into such an arrangement at the point when the young person will become 18. Should both parties express their wish to enter into a ‘staying put’ arrangement’, and the local authority determines it to be appropriate, the authority must provide advice, assistance and support in order to establish a ‘staying put’ arrangement.

Financial Support

- 7.30. Section 23CZA(4) of the Children Act 1989 states that the support that local authorities provide to former foster carers must include financial support. Whilst the level of financial support payable will depend upon individual needs and circumstances, local authorities should pay former foster carers an allowance that will cover all reasonable costs of supporting the care leaver to remain living with them.
- 7.31. When deciding upon the level of financial support payable, careful consideration will have to be given to the impact of the ‘staying put’ arrangement on the family’s financial position. The impact will vary from family to family. Consideration should be given to any additional income that the young person may obtain such as income from employment/benefits/entitlements.
- 7.32. Young people and foster carers may need advice and help on benefits and tax issues relating to ‘staying put’ arrangements. The Department for Education alongside HM Revenue and Customs and the Department for Work and Pensions produced guidance on the tax and benefits aspects of ‘staying put’ arrangements.

The guidance is available at: <https://www.gov.uk/government/publications/staying-put-arrangements-for-care-leavers-aged-18-years-and-above>

- 7.33. It is important that local authorities provide clear information to their foster carers on the financial support they provide to former foster carers in supporting young people in 'staying put' arrangements. By doing this it enables foster carers to decide and plan well in advance whether they wish to participate in a 'staying put' arrangement.

Procedures

- 7.34. Local authorities will have their own protocols governing 'staying put' arrangements. However, as good practice, the local authority should, prior to the new arrangement commencing draw up a 'living together agreement'. This should be agreed by the young person, the former foster carer and the social worker/personal adviser. Such agreements should cover the 'ground rules' of the household as well as the areas of responsibility that all parties to the arrangement are expected to fulfil.
- 7.35. Whilst the Fostering Services Regulations 2011 will no longer apply, basic standards should continue to govern the arrangement when a young person reaches the age of 18. These may include:
- On-going review of the 'staying put' arrangement
 - Health and safety checks;
 - Attending required training.
- 7.36. Local authorities should have protocols in place that govern their safeguarding arrangements. Social workers and personal advisers should be particularly mindful of the potential dangers of sexual and other forms of exploitation in respect of care leavers.

Types of support

- 7.37. Local authorities should, through the pathway planning process, ensure that the personal adviser and other leaving care professionals support the young person in a 'staying put' arrangement so that they receive the support required to develop their independent life skills. This is particularly important as young people in these arrangements will require a range of skills to live independently once they leave a 'staying put' arrangement.

Support for foster carers

- 7.38. For the 'staying put' arrangement to be fully effective, local authorities will need to discuss with the former foster carer whether they require any particular training

and guidance to help support the young person. The type of support that a former foster carer will need to provide in a 'staying put' arrangement is likely to be different to that they provided when fostering the young person. The local authority should explore with the former foster carer the type of training and support they think they will require, particularly in helping the young person develop their independent life skills.

- 7.39. Whether the former foster carer is from the local authority or an independent fostering service, careful consideration should be given to continued support which could include peer support.

Independent Fostering Providers

- 7.40. Local authorities should consider how best to manage 'staying put' arrangements with independent fostering providers.
- 7.41. As said previously, young people living with foster carers supported by independent providers should be treated in the same way as those young people living with local authority in-house foster carers when consideration is given to a 'staying put' arrangement. Local authorities should have discussions with independent fostering providers at an early stage regarding the option of a 'staying put' arrangement. This discussion should include the amount of allowance the local authority will pay the former foster carer.

Monitoring and Reviewing

- 7.42. Monitoring the 'staying put' arrangement will form an important part of the support package. The pathway planning process should review the arrangement on an on-going basis and progress should be recorded as part of that process.

Attending University and other settings away from home

- 7.43. Local authorities should consider how they would support a young person in a 'staying put' arrangement, who wishes to pursue a higher education course at a university which may be in the area or outside the area of the 'staying put' arrangement. Living away from the former foster carer's home for temporary periods such as attending higher education courses should not preclude a 'staying put' arrangement.
- 7.44. Local authorities should also consider supporting a young person in a 'staying put' arrangement if they are living away from home. Such circumstances might include a residential further education institution; undertaking induction training for the armed services or other training or employment programmes that require a young person to live away from home.

- 7.45. All too often young people are forced to sever relationships with their former foster carers when choosing a university course or other type of education/training that often means that they have no option but to move to another part of the country. By financially supporting such arrangements, the local authority is enabling the continuation of a familial relationship which gives the young person the security and stability they require whilst they are focussing on their education.

Entitlements

- 7.46. Young people in a 'staying put' arrangement continue to be entitled to existing leaving care support such as the allocation of a Personal Adviser and a Pathway Plan. So for example, they will be able to access the 16-19 Bursary if they are pursuing a further education course and the HE Bursary if they are in higher education.
- 7.47. The local authority should explain to the young person their full entitlements, including how they will provide the young person with their leaving care grant once they move on from a 'staying put' arrangement and live independently.

Duration of support

- 7.48. There is no minimum time the young person needs to have lived with their foster carer prior to turning 18. In order to be eligible for a 'staying put' arrangement the young person will need to be a former relevant child and have lived with their former foster carer immediately before turning 18.
- 7.49. Providing it is consistent with the welfare of the young person, the local authority would be expected to support a 'staying put' arrangement until the young person turns 21 – unless the young person or foster carer want the arrangement to end earlier.
- 7.50. Local authorities may wish to continue supporting a young person beyond age 21 if it meets their individual needs, such as finishing their course of education.

Reasons for not supporting an arrangement

- 7.51. In all cases where the young person and former foster carer continue to live together after the young person reaches the age of 18 and until the young person becomes 21 years old, the local authority will monitor the "staying put' arrangement' and will provide advice, assistance and support (including financial support to the former foster carer) with a view to maintain such an arrangement. The only time the local authority would not provide advice, assistance and support would be in those exceptionally rare circumstances where a 'staying put' arrangement would not be consistent with the welfare of the young person.

Communications

- 7.52. Local authorities should have clear and easily accessible information about how they support 'staying put' arrangements. To ensure that all young people in foster care are aware of this support, local authorities should disseminate information to the young person and foster carer, if possible, at the start of a fostering placement and/or at least at the point when the young person turns 16.
- 7.53. Local authorities should ensure that their 'staying put' protocols are published on their websites and disseminated to all their foster carers.

Moving on from a 'staying put' arrangement

- 7.54. The local authority will want to ensure that the end of a 'staying put' arrangement is not another 'cliff edge' for the young person but a gradual transition to independent living.
- 7.55. Procedures should be agreed at the outset regarding how any wish by the former foster carer or young person to bring the arrangement to an end will be managed. Such processes should be managed carefully and sensitively by the local authority.
- 7.56. The social worker/personal adviser should discuss with the young person their transition from such an arrangement to another type of accommodation and agree the type of support the young person will require. These arrangements should be developed alongside joint protocols with the housing authority, setting out how access to social housing and care leavers 'priority need' status will be discharged.

Challenging decisions by the local authority

- 7.57. If a young person feels that his/her wish to remain with their former foster carer has not been properly considered by the local authority or they are unhappy with the way in which the local authority has acted, they may wish to speak to their Independent Reviewing Officer who chairs their reviews before they turn 18 and request a review of their pathway plan.
- 7.58. The young person should be told of their right to use their local authority's complaints procedure to voice their concerns.
- 7.59. They should also be told of their right to have an independent advocate through advocacy services and how to contact advisory helplines provided by organisations such as NYAS and Voice to support them in representing their views to the local authority.

Supported lodgings

- 7.60. The term supported lodgings has no formal definition or prescribed regulatory framework, but supported lodgings services generally share key common characteristics. They provide accommodation for a young person within a family home, where the young person will have a degree of independence with their own room and will share the kitchen and bathroom facilities with the family or householder – or "host". Hosts can be families, couples or single people.
- 7.61. The primary aim of supported lodgings is to provide a supported household environment that enables a young person to develop practical, emotional and relationship skills that will ensure they make a successful transition from care to independence and adulthood. They should be seen as part of a range of accommodation options on offer to young people aimed at preparing them for independence and adulthood.
- 7.62. As commissioners and/or providers of supported lodgings, local authorities should ensure that clear policies and procedures are in place setting out:
- assessment and approval criteria for carer/s or host/s²⁷;
 - nature and level of support for carer/s or host/s;
 - allowance and fees structure;
 - referral and matching criteria for young people to carer/s or host/s;
 - expectations of carer/s or host/s and young people;
 - safeguarding frameworks;
 - financial arrangements (young people aged 16 and 17 and young people aged 18 plus);
 - training available to carer/s or host/s;
 - the income tax, national insurance and welfare benefits frameworks affecting payments made to carer/s or hosts.

Supported housing and Foyers

- 7.63. Supported housing and Foyers can offer young people an opportunity to live more independently whilst still having other people around (staff and young people) and receiving support to develop independent living skills and work towards their goals in education, training, employment and other areas of life. The Foyer model is distinctive in that, in exchange for services tailored to their needs, young people

²⁷ Note that supported lodgings carers who are approved via the fostering regulations and fostering panel, to provide a placement for a looked after child will be treated as foster carers for income tax, national insurance and means tested benefit purposes. Less favourable rules apply where supported lodgings carer/s are approved outside of the fostering regulations minimum standards.

entering a foyer are expected to actively engage in their own development and make a positive contribution to their local community. Schemes vary widely, for example, in the number of people living there, nature of the accommodation itself (e.g. self-contained or with shared facilities), level of support provided and expected duration of stay.

- 7.64. Supported accommodation and Foyers are commonly commissioned with reference to quality assurance frameworks such as the Supporting People Quality Assurance Framework and Foyer Federation Accreditation Scheme. Where local authorities use unregulated supported accommodation for young people aged 16 and 17, they should ensure that all providers are vetted and approved to the standards they require through these or other routes.

Independent accommodation

- 7.65. In the majority of cases, independent living will entail the young person becoming a tenant in their own right²⁸. Tenancies are available in both the social and private rented sectors and each has a range of potential benefits and disadvantages. For example, tenancies in the social sector offer lower rents, greater security of tenure and social landlords are subject to a higher degree of regulation of standards than private landlords. However, the private rented sector can offer quicker access, greater flexibility, a greater choice of locations and opportunities to share with friends.
- 7.66. Working through the joint protocol, children's services and housing services should develop access routes for care leavers into both social and private rented accommodation, taking into account local housing market conditions, to maximise care leavers' housing options. Local authorities should avoid blanket approaches of promoting or discouraging either tenure, instead
- 7.67. The risk of tenancy breakdown is relatively high when a young person becomes a tenant for the first time. Systems must be in place to ensure that young people have been well prepared and their assessment clearly demonstrates that they are ready to live independently. 'Floating support' should be provided to help young people living in their own tenancies (in either type of tenure) to develop the practical and financial skills and the emotional resilience they need to live independently. Some young people will only need floating support for a short period until the practical and financial aspects of setting up and running a home have been completed and the young person is confident living alone, while others will need more intensive or on-going support. Where possible, floating support should be designed to follow the young person, so, if they move house they can

²⁸ Broadly speaking, a tenancy is created when someone is granted the right to occupy accommodation with exclusive occupation for a period in return for a rent.

continue to receive it. Local authorities must also ensure that young people know where to get help immediately if they encounter problems.

Social rented housing

7.68. Housing authorities are responsible for allocating most social housing, although some registered social landlords (housing associations) let a proportion of their vacancies independently. In many areas demand outstrips supply, making accommodation in the social rented sector a scarce resource and generally not available 'on demand'. Housing authorities must allocate accommodation in accordance with Part 6 of the Housing Act 1996, which requires them to publish an allocations scheme and give reasonable preference to housing applicants who fall within specified groups, including people who need to move on medical and welfare grounds. Statutory guidance²⁹ says that in this context "welfare grounds" would include the need to provide a secure base from which a care leaver can build a stable life.

7.69. Local authorities should use joint protocols to ensure that:

- PAs and young people have access to information about, and understand the process of applying for social rented housing;
- There is flexibility to enable young people to return to more supported accommodation if they are not coping with independent living – whilst retaining the opportunity to apply for a new tenancy in the future when they are better prepared for independent living.

Privately rented housing

7.70. Residential accommodation in the private rented sector may be offered by an individual or a company. The sector includes a variety of accommodation and, unlike most social rented housing, can include flat shares. However, there can be financial barriers to accessing accommodation in the private rented sector, for example the common requirements for rent in advance and a security deposit in case of damage. Another potential barrier to care leavers can be negative landlord perceptions of young people as tenants.

7.71. Safety, physical condition and affordability within the young person's income and/or the limits of the Local Housing Allowance (LHA)³⁰ will all require careful checking to determine the suitability of a property.

²⁹ *Allocation of accommodation: guidance for local housing authorities in England* (2012) <https://www.gov.uk/government/publications/allocation-of-accommodation-guidance-for-local-housing-authorities-in-england>

³⁰ Information on local housing allowance rates can be found at <https://lha-direct.voa.gov.uk/Secure/Default.aspx>

- 7.72. Local authorities should explore options for, and potential benefits of, working in partnership with housing services before developing separate arrangements to help care leavers access private rented accommodation.
- 7.73. Examples of interventions could include:
- Landlord accreditation schemes;
 - Rent deposit and bond guarantee schemes;
 - Developing partnerships and agreements with known private landlords;
 - Services offering parallel support for tenants and landlords to help identify and mitigate problems early (including rent arrears) and prevent and mediate difficulties;
 - Protocols with Housing Benefit departments for the assessment of whether a tenant requires ‘safeguarding’ for local housing allowance purposes³¹.

Contingency planning and homelessness

- 7.74. The homelessness legislation (Part 7 of the Housing Act 1996³²) provides a safety net for people in housing crisis. It should not be used as a mechanism for meeting housing needs that can be anticipated and planned for. Local authority protocols for care leavers’ transition to independent living should reflect this by enabling the delivery of effective preparation for independence with planned, sustainable moves. There should be no expectation that care leavers will be treated as “homeless” when their care placement comes to an end, in order to place the housing authority under an obligation to secure accommodation under Part 7 of the 1996 Act.
- 7.75. Once a care leaver has been placed in suitable accommodation, the responsible authority should take positive action in partnership with the landlord and partner agencies to ensure the young person is provided with sufficient support to prevent eviction, or, the young person abandoning a property.
- 7.76. The pathway plan must include strategies for early intervention if things start to go wrong, putting an accommodation placement at risk. In the event of a housing crisis the young person’s PA is responsible for making sure that there is a review of the plan and that the relevant housing providers or services are involved.

³¹ This may be because they are unlikely to pay, or likely to have difficulty paying, their rent. If a tenant requires ‘safeguarding’ the local housing allowance can be paid directly to the landlord to prevent rent arrears.

³² Under Part 7 of the 1996 Act, housing authorities must secure accommodation for applicants who are eligible for assistance, have become homeless through no fault of their own and who fall within a priority need group (some persons from abroad are ineligible for assistance). The priority groups include care leavers aged 18 to 20. In addition, a person aged 21 or more has priority need if they are *vulnerable* as a result of having been looked after, accommodate or fostered.

- 7.77. Provision and partnerships should be developed in such a way as to permit young people to move to other accommodation in a crisis, including returning to more supportive accommodation if appropriate. Ensuring that young people leaving care can access the full range of suitable supported accommodation in the area will assist with this.
- 7.78. In exceptional cases, where accommodation arrangements break down and a planned move to alternative accommodation cannot be achieved sufficiently quickly, provision should be made for access to safe, secure and appropriate emergency accommodation, with access back into more settled accommodation as soon as possible.
- 7.79. It is important that systems recognise that placement breakdowns that end in eviction, or abandonment, could result in a young person being considered to have become homeless “intentionally”, which may limit the assistance they would be entitled to under the homelessness legislation. Housing Services and Children’s Services should adopt a shared strategic approach to the provision of emergency accommodation and housing and support pathways for young people in order to avoid the use of B&B accommodation.

Tenure for young people aged 16 and 17

- 7.80. Local authorities should work closely with housing authorities and other housing providers to establish arrangements whereby young people are not excluded from potentially suitable rented accommodation because they are aged under 18.
- 7.81. When young people move to semi-independent or independent accommodation they will enter into an occupancy agreement with the landlord. Depending on the circumstances, these agreements will either be a licence to occupy or a tenancy. Broadly speaking, an agreement will create a tenancy in law where the occupant is granted exclusive occupation of a property (or part of one, for example a bedroom with access to shared facilities) for a term at a rent. Where the occupant does not have exclusive possession, for example, where the landlord has regular access to provide support or services, or where the young person lives in the landlord’s own home, i.e. supported lodgings, the agreement is likely to be a licence.
- 7.82. Some landlords may be reluctant to provide accommodation with exclusive possession to a person under 18 years of age because of uncertainty about whether a minor can hold a tenancy and, if so, whether its terms are enforceable (for example, whether the landlord can seek eviction and recovery of unpaid rent).
- 7.83. Generally, a tenancy is created in law automatically when a person is given the right to occupy accommodation with exclusive occupation for a period in return for rent. However, a minor cannot hold a legal estate in land and this means they cannot hold a legal tenancy. This does not prevent a landlord from providing a

minor with accommodation with exclusive possession for a period in return for rent, but the landlord will need to make special arrangements and avoid granting a tenancy to the minor. This applies to landlords in all sectors and to semi-independent and independent accommodation. See Appendix C for further detail.

Vacation accommodation

- 7.84. The 1989 Act requires that a local authority ensure that any local authority care leaver in full time residential further education or higher education³³, regardless of whether they are a former relevant child or qualifying child, has suitable accommodation if they need it during a vacation. The local authority must be satisfied that the young person needs accommodation because their term-time accommodation is not available. This assistance may take the form of either providing the young person with suitable accommodation, or by paying them enough to secure suitable accommodation themselves.
- 7.85. These provisions apply to every vacation and are intended to ensure that the young person is not homeless during that time. An assessment of whether there is likely to be a need for this assistance should be undertaken when the young person is making a decision about which course to pursue, and when the pathway plan is being reviewed to establish an appropriate package of student support. The requirement to assist, if necessary, with vacation accommodation lasts for as long as the young person continues on the course which has been agreed as part of their pathway plan.

³³ For this purpose, “higher education” means education provided by means of a course of a description referred to in regulations made under section 22 of the Teaching and Higher Education Act 1998; “further education” has the same meaning as in the Education Act 1996 save that for the purposes of this regulation it only includes further education which is provided on a full-time residential basis.

Chapter 8: Finance matters

Introduction

- 8.1. Care leavers are particularly vulnerable to social exclusion because they will have to make their transition to adulthood much earlier than most other young people. Local authority financial policies should aim to mirror the types of support that families provide, to be flexible to the differing needs of care leavers and to be aware of the fact that they are often being required to be financially capable and competent early in their adulthood. Local authorities should support looked after children and care leavers to manage their financial resources and money, gradually helping them to take responsibility for themselves, but recognise that the process of successful learning may involve learning from mistakes, taking risks and a requirement that a second chance with related financial support may be required.

Preparation for the transition to adulthood

- 8.2. Local authorities must place an early emphasis on financial literacy and financial capability skills which are essential to ensuring that children and young people are given solid foundations on which to build when a more formal focus on financial planning commences as part of the pathway planning process. Pocket money, leisure and clothing allowances provided within foster care and residential care can be used to help children develop money management and finance skills.
- 8.3. It is imperative to sound financial planning that young people, foster carers, residential social workers, leaving care social workers/PAs and staff in partner agencies are fully aware of the financial support and entitlements that young people have during the transition to adulthood.
- 8.4. It is important for young people and those working with them that a clear written and transparent financial policy is in place that sets out what entitlements young people have, what conditions are attached to these entitlements and how any payments will be made.
- 8.5. The financial policy should be reviewed every year by the local authority and set out how the local authority as a 'good corporate parent' will assist the young person with financial support to achieve economic well-being and make a positive and successful transition to adulthood.
- 8.6. The financial policy, as an absolute minimum, must provide a leaving care maintenance allowance (equivalent to the prevailing Income Support/Jobseekers Allowance benefit rate) and the provision of a suitable and appropriate placement/accommodation or the financial means to secure the accommodation (up to the young person's 18th birthday). The policy should also be clear about the

treatment of young people's own funds, whether these come from employment, inheritance, Criminal Injuries Compensation Authority awards, or other sources.

- 8.7. Policies should be accessible and be easily understood by young people. Therefore, the policy should be published on the authority's website and a copy of this policy should be given to all looked after children and care leavers. Local authorities should involve young people in developing 'user friendly' versions and formats.

(1) General principles for developing financial capability and transparency

Financial policies to support transition to adulthood

- 8.8. The financial policy should set out how the local authority will support young people to enhance their life chances and make a successful transition to adulthood and demonstrate the priorities of the local authority for the young people for whom it acts as a corporate parent.
- 8.9. Priorities will need to include:
- Education, training and employment costs, such as extra tuition, travel costs, interview and work related expenses and general costs associated with improving young people's employability;
 - Education materials and equipment;
 - Further and higher education support (including HE bursary);
 - Clothing;
 - Counselling or therapeutic needs;
 - Social activities, hobbies and cultural activities/outings;
 - Costs associated with special needs (such as disabilities and the transition to adult services, pregnancy and parenthood);
 - Costs associated with cultural or religious needs;
 - Child care costs (other than those provided by universal services);
 - Costs associated with obtaining important documents associated with identity (passports, birth certificates, driving licenses);
 - Deposits and rent in advance for young people moving into properties in the private rented sector;
 - Household insurance;

- Costs associated with corporate parenting including: birthday and Christmas/festival allowances; young people having the opportunity to experience activities such as driving, which can enhance their life chances and avoid social exclusion;
 - Setting up home allowances (including the possibility of assistance with utility bills during the young person's first winter of independent living and decorating costs, both for private sector accommodation and local authority accommodation [where appropriate]).
- 8.10. Local authorities should also set out how they will support specific groups of care leavers such as lone parents, young people who are detained in hospital and custody, disabled young people and UASC.
- 8.11. Local authorities will also need to set out how young people who are in receipt of means tested benefits at the age of 16 and 17 accruing from their additional need [i.e. as disabled young people or as young mothers] may change the young person's entitlement to main stream leaving care allowances.
- 8.12. Local authorities should set out entitlements to young people who have been placed at home long term, young people who return home in a planned manner and those who return in an emergency. These will need to take into account the legal status of the young person and the circumstances under which they return to their families.
- 8.13. Policies should provide equity, and, in order to be transparent and ensure fair access, should be reviewed every year and be open to independent audit and scrutiny, including by the Children in Care Council, or an appropriate consultative advisory body.

Identification documents

- 8.14. Financial policies as well as pathway planning frameworks should assist young people to make the emotional, practical and financial transition to adulthood.
- 8.15. In order to avoid social exclusion, local authorities may wish to support and assist young people to obtain birth certificates, passports, driving licenses and other identification documents that will be required as they make the transition to adulthood. Some or all of these documents are critical for registering for housing, employment, training and education, opening bank accounts and proving identity.

Criminal Injuries Compensation Authority payment

- 8.16. Young people who receive a Criminal Injuries Compensation Authority (CICA) payment should be assisted to seek independent financial advice regarding the use of their award and how, for example, by establishing a Discretionary Trust Fund, they may retain entitlement to means tested benefits. Means tested welfare

legislation sets out that a CICA payment is disregarded in terms of calculating benefit entitlement for the first 52 weeks after receipt of the award.

Setting up home allowances

- 8.17. Making the transition to adulthood can be an extremely stressful process for a looked after child but one that can also be very rewarding and help young people to assert their identity, make life choices about how they furnish their own homes and thus improve their self-esteem and confidence. As such, local authority allocation of setting up home allowances will be crucial in helping young people establish their identity and independence and should be used to ensure that they have appropriate equipment and household items to set up safe, secure and stable accommodation.
- 8.18. Like other young people setting up their first home young people making the transition from care to independence are likely to need a substantial amount of support to ensure they maximise the allowances they get to set up a home.
- 8.19. We expect local authorities to consult with their Children in Care Council or appropriate consultative advisory group to set the level of the setting up home allowance and endorse a minimum standard for furnishings and equipment depending on the type of accommodation. A survey by the Care Leavers Foundation in 2011 showed that in order to buy the minimum amount of furnishings and equipment which would be needed, the allowance should be at least £2,000 and in many areas £,3,000. All local authorities are, therefore, encouraged to aim for payments at these levels as a minimum and to review their payments annually. Local authorities should also ensure this entitlement is publicised so that their young people are fully aware of it.

Access to and the provision of financial support

- 8.20. Whilst it is vital that young people are aware of their entitlements, it is also important that they are clear about how the local authority will provide any financial support. The provision of support should reflect the local authority's commitment to being a responsible and involved corporate parent and provide a degree of flexibility. Care leavers are not an homogenous group and the manner in which financial support is provided should reflect this diversity of need, ability and the circumstances of individual young people.
- 8.21. All allowances should be based on an assessment of need and be set out in the young person's pathway plan. The plan must also highlight any attached conditions, how payments will be made, the frequency of payments and when they will be reviewed.
- 8.22. In order to support young people to make a successful financial transition to adulthood they should be assisted to open bank accounts and, where possible, all

allowances should be paid through their account. In certain circumstances young people may require additional assistance with managing allowances and may need their allowances to be paid in the form of a cash payment. In extreme situations PAs may need to shop with individual young people and/or provide allowances in kind. In these situations the young person's pathway plan should set out how long these arrangements may need to remain in place and what goals and milestones need to be achieved for the management of the allowance to be transferred to the young person.

- 8.23. Where young people live outside of their responsible authority, arrangements will need to be put in place to help young people manage their allowances and develop financial capability skills. If young people are capable of managing their own funds these may all be channelled through the young person's bank account. If the young person is experiencing difficulties managing their allowances there may need to be negotiations with the leaving care service in the authority where they are living currently so that any financial support might be channelled through this authority.

Incentives, contributions and sanctions

- 8.24. A relevant child has an absolute right that accommodation and maintenance is provided by his or her responsible authority so long as his or her welfare requires it. This duty on the responsible authority is not qualified by any requirements on the young person.
- 8.25. The majority of other support will be based on entitlements set out in the authority's leaving care financial policy and linked to the pathway plan. Local authorities may wish to set up a system of rewards and incentives linked, for example, to attendance in education, training or other activities aimed at improving young people's employability. The pathway plan should set out both general entitlements and more targeted and specific entitlements.
- 8.26. Where rewards and incentives are not operating as anticipated, the PA will need to work with the young person to identify changes and review the pathway plan accordingly.
- 8.27. In addition to rewards, local authorities will need to consider a system of contributions from young people who are earning above a given threshold and a system whereby young people living in accommodation where utilities are provided to make a small contribution. The principle behind contributions from young people should be to assist them with the development of preparation for independence and money management skills and to assist them to prepare for the time when they will need to pay bills on their own. Any system of contributions should have a high threshold to ensure young people do not feel there is a disincentive to engage in education, training or employment. Rewards and contributions systems will need to be based on a responsible corporate parent

model in a way that will use incentives and contributions to encourage achievement and assist them to develop good budgeting skills.

- 8.28. In more difficult circumstances a responsible corporate parent would not be punitive with a young person but would want to ensure they had all their needs met and may, temporarily, apply sanctions such as loss of incentives and provide food rather than money if the maintenance allowance was being abused. In extreme circumstances allowances may need to be temporarily withdrawn if they were being abused excessively.

Emergency assistance

- 8.29. Arrangements should be made to assist young people to access emergency payments within their responsible authority area, should they require them. This may involve the provision of small cash payments from the leaving care service, or may involve previous foster carer/s, supported lodgings carer or residential units holding a small allowance to be used in an emergency. The system of previous carers holding allowances may help to address the difficulties associated with accessing support outside of core working hours. In addition, out of hours services may need to provide occasional emergency payments. Where emergency payments become relied upon, the pathway plan may need to be reviewed to set out the support necessary to help develop a young person's financial capability skills.

Transitions to education, training, employment and benefits income

- 8.30. Local authorities should use allowances like other 'good' parents to bridge the financial gap between local authority support and employment, education or benefit support. For example, by providing grants to young people between starting work and getting their first salary, and between the age of 18 and means tested benefits claims being established. It should be noted that leaving care allowances are generally paid in advance and means tested benefits are paid in arrears. It is therefore important that local authorities as responsible corporate parents continue to make transitional payments between the age of 18 and until young people's benefit payments are made.
- 8.31. Local authorities should establish constructive working relationships with local Jobcentre Plus and Benefit Delivery Centre contacts.

Young people who return home and young people living at home

- 8.32. Where, following a statutory review, young people who are 'accommodated' under section 20 of the 1989 Act by arrangement with their parents return home in a planned manner, they will cease to be looked after and be 'relevant' children. On returning home the young person's parent/s are able to claim child benefit as long

as the young person is undertaking full time education and training. After six months, and following a review that these arrangements are successful, the young person will become a qualifying child; and if they are undertaking full time education and training and their parent/s meet the criteria for Child Tax Credits, the parent may be eligible for the Child Element; and if the young person is the only child in the family, the Family Element of Child Tax Credits.

- 8.33. Local authorities should set out how they propose to support financially young people in these circumstances, taking into account the financial circumstances of their parent/s. Local authorities will need to consider equity issues in relation to siblings who may not have been looked after. For example, it may not be appropriate to provide the full range of transition to adulthood allowances such as birthday and Christmas/festival allowances if this creates disparities between other siblings who have not been looked after and therefore undermines parent's financial circumstances and independence.

Exceptions to financial support – 16 and 17 year olds

- 8.34. Sick and disabled young people and lone parents who meet the criteria set out in Schedule 1B of the Income Support (General) Regulations 1987 are eligible to claim Income Support or Employment and Support Allowance but not Housing Benefit or Local Housing Allowance. Additionally, they can claim these benefits whilst living in foster care. The responsible authority through a transparent financial policy should set out how the authority will take account of these allowances. Claiming these benefits is a pre-requisite for a number of other benefits and services.

(2) Maximising income and life chance opportunities for care leavers

Means tested and welfare benefits – former relevant children

- 8.35. Local authorities, whilst not wanting to encourage young care leavers to become dependent on means tested benefits, should assist young people to maximise their income from benefits, education and training allowances and employment.
- 8.36. The development of a guide to welfare benefits is good practice and a helpful addition to local authority finance policy on support for care leavers; these should be made available to young people.
- 8.37. Local authorities should work with local Department for Work and Pensions offices, Job Centre Plus and Benefit Delivery Centre offices and Housing Benefits offices to develop joint approaches to assisting young people to maximise their entitlement and ensure the claim process recognises the particular needs of care leavers and provides a smooth process.

- 8.38. Examples of local and regional initiatives that have improved joint working include the development of standard care leaver benefit claim letters, disclosure of information processes, arrangements for registering claims in advance of a young person's 18th birthday and general claim protocols. In order to improve joint approaches, local authorities and partner agencies may find it beneficial to develop joint training to assist each agency to understand their respective legislative frameworks and responsibilities. All Jobcentre Plus regions have teams at both regional and district level with responsibilities for partnership and external relations management and many areas also have regional housing benefit forums which can be used to start the process of joint working.
- 8.39. Given the complexity of claiming means tested benefits, PAs should actively support young people with their initial benefit claim. This may involve assisting young people with phone calls to register their initial claim, accompanying them to their initial Job Centre Plus appointments, completing forms, providing supporting documents and letters and by the provision of transitional payments. PAs should be aware of how benefit claims can be submitted and that where a young person is 'vulnerable' it should be possible to arrange with Jobcentre Plus for a paper, rather than a telephone, claim to be submitted.

Disregarded payments

- 8.40. Payments made under sections 23B, 23C, 24A and 24B of the 1989 Act by the responsible authority are disregarded by the Department of Work and Pensions for the purpose of calculating entitlement to means tested benefits such as, Income Support, Employment and Support Allowance, Jobseeker's Allowance, Housing Benefit, Local Housing Allowance and Council Tax Benefit or Child Tax Credits. These payments are also disregarded in assessing the student support entitlement of an eligible higher education student attending a designated course.

Education, training and employment

- 8.41. One of the key indicators of future economic well-being is the level of education and training that a person achieves. Therefore, local authorities will need to have high aspirations for their young people and practical and financial policies that translate these aspirations into practice. Financial support and policies should promote and encourage young people to remain engaged in education, take up new education and training opportunities and undertake activities aimed at improving employability for those who are not engaged in employment or training (NEET).
- 8.42. The local authority may wish to consider the provision of incentive payments to encourage young people to undertake and sustain education and training courses and opportunities. The provision of these incentives would also help to ensure that care leavers are economically and financially secure.

Financial assistance for care leavers qualifying for advice and assistance under section 24(2) – ‘Qualifying young people’

- 8.43. For care leavers who do not become relevant children but who qualify for advice and assistance under section 24(2), the primary financial support role remains with the Department for Work and Pensions. However, local authorities may also give financial assistance to these young people on account of their particular needs over and above those of other young people and, where appropriate, may provide assistance to the same level of that provided to an eligible, relevant or former relevant child.
- 8.44. Where a local authority has either a duty or a power to advise or befriend young people who have left care (section 24(1)(b)), it may also give assistance which may be in kind or, in exceptional circumstances, in cash (sections 24A(4) and (5)). It should, however, be borne in mind that the local authority’s power to provide assistance to these care leavers extends until they reach the age of 21, or 25 where the young person is engaged in education or training. Where a young person has no parent to turn to for help, or where the parent does not have the capacity to provide assistance, it is to be expected that they will turn to the local authority for help. In these circumstances and following an assessment of need the local authority may provide support to the same level as that provided to other care leavers.
- 8.45. 8.45 Local authorities are encouraged to be pro-active in advising young people of the circumstances in which assistance can be provided and to take into account the fact that the reference to the provision of financial assistance in “exceptional circumstances” (section 24A(5)) refers to the individual young person rather than to the general policy of the authority. It will be for the authority to decide in each case whether the provision of financial assistance would be appropriate, but the presumption should be that such assistance should be provided where this is necessary to protect the young person’s welfare and it cannot be made available by any other agency. Local authorities are encouraged to be flexible in deciding what leaving care assistance can be given for and to consider a young person’s wishes about the way in which any assistance should be spent.
- 8.46. In addition to the general powers to provide assistance under section 24A(4), local authorities have a specific power to provide assistance to these care leavers where this is connected with the young person’s employment (section 24B(1), education, or training (section 24B(2)). It should be noted that any such financial assistance or grant provided under section 24B(2) where this is connected to a course of education or training may be given up to and including the age of 24 (section 24B(3)).
- 8.47. It is important that young people, residential and field social workers, parents and foster carers and staff should be aware of the assistance which the local authority can provide to qualifying young people. This can be achieved through the

provision of a specific section on qualifying young people incorporated into the leaving care financial policy and in the published statement of the local authority's services under sections 24, 24A and 24B.

- 8.48. Local authorities should provide information about the practical and financial services that are available to qualifying young people. This information should be incorporated into an easy to read leaflet setting out the full range of services that qualifying young people can expect and should be produced by the local authority and made freely available.
- 8.49. Disabled young people who have been provided with short term breaks may be particularly in need of financial assistance, especially if they have high communications needs that make it difficult for them to apply to other agencies, such as voluntary organisations, for help.
- 8.50. Section 24B(5) provides that the responsible authority must provide vacation accommodation, or the means to secure it, to any care leaver qualifying for advice and assistance under section 24(1), who is between the ages of 16 and 25, in higher education or in residential further education and who needs it.
- 8.51. Local authorities should also set out what assistance can be provided to young people who are deemed 'Qualifying' as a result of being looked after immediately prior to becoming subject to a Special Guardianship Order or subject to a private fostering arrangement. Local authorities will need to be clear about which local authority is responsible for the provision of services to qualifying young people. The relevant authority is defined in section 24(5).

Chapter 9: Representations and complaints

- 9.1. *The Children Act 1989 Representation Procedure (England) Regulations 2006*³⁴ sets out the processes that must be followed by local authorities when they consider representations and complaints about the services they provide under the Children Act – including services to care leavers. The Regulations require local authorities to follow timescales for handling representations and complaints that offer an opportunity for local resolution, so that issues may be resolved promptly and efficiently. Local authorities must allow for the involvement of independent people when they consider representations, so that young people can recognise that the process is both transparent and fair³⁵.
- 9.2. As corporate parents for looked after children and care leavers, local authorities should listen to young people and act on what they say. This duty is especially important at times when they have a problem, concern or want to make a complaint. If the complaint is about a proposed change to a pathway plan, young person's accommodation or a service, the decision may need to be deferred (frozen) until the complaint is considered³⁶.
- 9.3. PAs and their managers must be very familiar with the local authority's arrangements for responding promptly to complaints and securing effective advocacy for care leavers whenever they indicate that they are considering making a complaint, or if they suggest that they might like help to make representations to their responsible authority about the quality of the leaving care service that they have received. Advocacy offers young people empowerment, makes sure that their rights are respected and that their views and wishes are properly considered and reflected in decision making about their own lives. Services should take a pro-active role in identifying whether young people would benefit from this important source of support.
- 9.4. Complaints procedures should be devised and operated in the wider context of encouraging all looked after children and care leavers to speak out and encouraging decision-makers to hear their views.

Fourteen day informal resolution stage

- 9.5. Where a young person receiving leaving care support makes a complaint, the responsible authority must put it into writing and submit it to their complaints

³⁴ SI 2006/1738

³⁵ *Get it Sorted: Providing Effective Advocacy Services for Children and Young People Making a Complaint* under the Children Act 1989 published in 2004 as statutory guidance to The Advocacy Services and Representations Procedure (Children) (Amendment) Regulations 2004 requires that, whenever necessary, young people should be offered assistance from an independent advocate so that they have the right support to make representations to their responsible authority.

³⁶ *Children's social care: getting the best from complaints* (2006)

<https://www.gov.uk/government/publications/childrens-social-care-getting-the-best-from-complaints>

officer. They must then try to reach an acceptable solution with the young person; they have 14 days to reach this informal resolution.

Resolving complaints

- 9.6. Where informal resolution is not possible, young people should be fully supported through the formal complaints process.
- 9.7. Regulation 4 of *The Advocacy Services and Representations Procedure (Children) (Amendment) Regulations 2004* states that where a local authority receives from a child or young person representations made under section 24D or section 26 of the 1989 Act, then the local authority must provide him or her with information about advocacy services and offer him or her help in obtaining an advocate. They must also provide the same information and help where they become aware that a child or young person intends to make representations about the quality of leaving care support.
- 9.8. The Children Act 1989 Representations Procedure (England) Regulations 2006³⁷ require local authorities to appoint an officer who has overarching responsibility for co-ordinating all aspects of the complaints and representations system. Whilst some young people may already have an advocate before they reach the stage of making a formal complaint, the complaints officer (who may be a dedicated children's complaints officer) must check that a young person has been put in touch with an advocate and is happy with the level of support they are receiving. If this is not the case, the complaints officer must inform the young person about their rights to advocacy, establish whether they would like an advocate, and, if so, make sure that they are put in touch with advocacy services. The responsible authority should ensure that, wherever possible, they can meet the preferences of individual young people, so that they can be matched with an advocate who has the necessary skills and who is able to relate well to, and communicate with, the young person concerned.
- 9.9. Local authority leaving care policies must include information about young people's entitlement to advocacy. It will be especially important that this information is provided in versions that are easy to understand and accessible to all of the authority's care leavers.
- 9.10. IROs and other staff responsible for reviewing pathway plans must routinely establish that young people have been informed about, and understand their entitlement to access advocacy support.

³⁷ S.I.2006/1738

Monitoring, complaints and representations

- 9.11. Responsible authorities must ensure that systems are in place to monitor the numbers of complaints and representations made by their care leavers. This will include monitoring those concerns that are resolved informally within 14 days. This information might usefully be included in reports to Children in Care Councils (or appropriate consultative advisory body) and to the Council's Members, especially the Lead Member for Children's Services and other members involved in scrutinising the quality of corporate parenting.
- 9.12. Local authorities are required under regulation 13 of the Children Act 1989 Representations Procedure (England) Regulations 2006 to monitor the arrangements that they have made with a view to ensuring that they comply with those Regulations by keeping a record of each representation received, the outcome of each representation and whether the time limits set out in the Regulations were complied with. Regulation 5 of the Advocacy Services and Representations Procedure (Children) (Amendment) Regulations 2004 requires local authorities to monitor the steps that they have taken with a view to ensuring that they comply with the regulations, in particular by keeping a record about each advocate appointed under the local authority's arrangements for the provision of advocacy services.
- 9.13. Complaints officers, children's rights officers, IROs, managers of leaving care services and other officers will need to work together closely in compiling monitoring reports.
- 9.14. These reports should include:
- a summary of statistical data about numbers, ages, gender, disability and ethnicity of care leavers at all stages of the complaints procedures;
 - arrangements for the provision of advocacy services;
 - details about advocates provided under the arrangements;
 - take up and refusal of service; and
 - care leavers' satisfaction with the service and perceptions of independence.
- 9.15. Regular feedback from young people is crucial in maintaining a good quality leaving care services. Local authorities must establish easily accessible arrangements for receiving feedback from young people, as part of their overall process for continually improving their leaving care service. These will need to take into account the diversity of care leavers and recognise that not all care leavers will live within the local authority and surrounding area.

Appendix A

Knowledge and skills of personal advisers

A.1 In assessing whether or not an individual possesses the right knowledge and skills to be effective as a PA for a care leaver, the local authority will need to establish that they are able to work within the legal and leaving care policy framework and that they demonstrate the necessary personal qualities, so that, they are capable of becoming an effective professional with the ability to advocate for the young person so they are supported to reach their potential.

A.2 The local authority's selection process for these important posts will involve the need to make an assessment of a candidate's potential abilities, as those with no previous experience who are employed as PAs or social workers cannot be expected to have acquired the detailed knowledge base and skills necessary for this rewarding and complex area of work.

A.3 Some skills will be common to all those who work with looked after children. Others will be more specialised – as PAs for care leavers should have demonstrable skills in assessing young people's needs and designing relevant interventions so that each care leaver is enabled to make positive transitions. There will also be circumstances where a professional's relationship with an individual young person may mean that they will be best placed to act as their PA, even though they may not possess the usual skill- set – e.g. in cases where a young person's former foster carer takes on this function.

A.4 The table below outlines the skills and knowledge that an experienced PA might usually be expected to demonstrate. This may have to be adapted or enhanced to take into account any wider statutory frameworks affecting groups of care leavers with more specific needs - e.g. disabled young people or unaccompanied asylum seekers.

Knowledge	Interpersonal skills
Human growth and development Sound understanding of human growth and development: <ul style="list-style-type: none">• Understanding of normal growth and maturation;• Basic understanding of how normal development can be disrupted. Understanding of how adverse family• Experiences impact on children and	Demonstrable skills in communicating with young people, their parents, other adults and professionals. With an understanding of when it may be necessary to access specialist assistance with communication. (It will be the professional's responsibility to ensure that they can communicate with the young person). Capacity to relate to care leavers to

Knowledge	Interpersonal skills
<p>young people;</p> <ul style="list-style-type: none"> • Common developmental problems. <p>Understanding of the dimensions of children’s needs³⁸ with an awareness of developmental, familial, social and environmental factors that impact on young people’s well-being and capacity to make the best use of educational opportunities.</p> <p>Basic ability to distinguish emotional and cognitive limitations and recognise when these may amount to significant mental ill-health.</p>	<p>encourage their resilience.</p> <p>Ability to produce concise, literate assessments using the accepted agency frameworks, which specify evidence based interventions and related outcomes.</p>
<p>Legal Awareness</p> <p>Basic understanding of the law relating to young people with the potential to develop their understanding of the legal framework and its practical implications.</p> <ul style="list-style-type: none"> • Understanding the framework of the 1989 Act <ul style="list-style-type: none"> • how children become looked after; • The meaning and implications of parental responsibility; • Knowing the relevance of “Section 8” and Special Guardianship Orders. • Potential to develop knowledge of the statutory framework for providing services and support to eligible, relevant and former relevant children. • Understanding of the youth justice system and the respective roles and 	<p>Ability to work within their agency’s framework for confidentiality and data protection, demonstrating an understanding of the circumstances when it may not be appropriate to maintain absolute client confidentiality.</p> <p>Demonstrate respect and consideration for individual child service users; but able to set appropriate boundaries and accept responsibility as a professional adult in appropriate circumstances.</p> <p>Demonstrate the capacity to recognise parents as real partners and to treat them with respect.</p> <p>Assessment skills relevant to professional role – including an understanding of when they may lack the necessary specialist skills.</p> <p>Ability to inform young people and their families about agency roles and how these may be enlisted so that they are receiving</p>

³⁸ i.e. health, education, emotional and behavioural development, identity, family and social relationships, social presentation and self-care skills.

Knowledge	Interpersonal skills
<p>responsibilities of youth justice and children’s services.</p> <ul style="list-style-type: none"> • Understanding the legal framework of rights and responsibilities given to young people at various ages. • Understanding of the law and professional codes relating to client confidentiality. • Understanding the legal framework governing housing services. 	<p>relevant support.</p> <p>Understanding the agency process for problem resolution, representation and complaints.</p> <p>Ability to meet agency requirements for making referrals of child protection concern. (Understanding of information requirements and timescales.)</p> <p>Capacity to contribute to assessments complied by others (e.g. social workers making safeguarding enquiries).</p> <p>Competence in applying knowledge to individual young people’s circumstances.</p> <p>Negotiation and conflict-resolution skills.</p>
<p>Assessment skills</p> <p>Knowledge of various professional frameworks for the assessment of children - and the differences between them.</p> <p>Organisational and administrative awareness and competence.</p> <p>Understanding of the specific roles of individual children’s services agencies – recognising their professional boundaries and responsibilities.</p> <p>Detailed knowledge of local procedures for safeguarding and promoting the welfare of young people.</p>	<p>Capacity to constructively engage young people and families with different ethnic/cultural backgrounds - providing non-stereotypical services, recognising what is culturally valuable but focusing on the needs of the individual young person.</p> <p>Ability to work with young people to support measurable improvements in their financial capability.</p> <p>Ability to support young people to raise their aspirations and encourage their personal career development.</p> <p>Ability to self-evaluate interventions in order to assess their effectiveness. Commitment to measuring self-effectiveness.</p> <p>Ability to reflect on self-working style and the impact of this on service users and</p>

Knowledge	Interpersonal skills
	other professionals.
<p>Communication with young people and their families</p> <p>Knowledge of a repertoire of communication techniques to elicit information from young people and their families.</p>	<p>Skills in building relationships with young people and others in their network.</p>
<p>Health needs</p> <p>Knowledge about local arrangements for accessing primary and specialist health services, including mental health for young people and adults.</p> <p>Knowledge about the roles of local well-being and mental health services for young people and adults.</p>	
<p>Valuing diversity</p> <p>Understanding of ethnic, cultural, religious and linguistic diversity that recognises the fundamental needs of the individual child.</p> <p>Understanding discrimination which may stem from being in 'care' and being a 'care leaver'.</p>	
<p>Economic and social need</p> <p>Understanding interventions for supporting young people to develop their financial capability.</p> <p>Knowledge of local services providing careers information, advice and guidance and support in employment.</p> <p>Knowledge of the welfare benefits system and respective agency functions and sources of financial support for young people.</p>	<p>Potential to negotiate with and work in partnership with other agencies to secure sound economic outcomes on behalf of care leavers.</p>

Knowledge	Interpersonal skills
<ul style="list-style-type: none"> • Benefits agency(ies) • Housing agencies • Student financial support • HE bursary • College bursaries and access funds 	
<p>Intervention skills</p> <p>Ability to relate research evidence to professional practice.</p>	

Appendix B

Supporting good practice so care leavers can succeed in further and higher education

Further education

Framework

B.1 There are clear structures for looked after children before statutory school leaving age: section 22(3A) of the 1989 Act sets out the duty on local authorities to promote educational achievement. Statutory Guidance supports this: Promoting the Educational Achievement of Looked After Children (2010). A Personal Education Plan (PEP) is a legal requirement for all looked after children as it forms the educational part of their statutory care plan. Guidance on the support for children in care includes the Virtual School Head Toolkit (2010).

B.2 Education doesn't stop at age 16. Regulation 5 of the Care Leavers Regulations states that pathway plans must assess the young person's need for education. It would be good practice for the PEP to be maintained for any child in Year 12 /13, working with a designated member of staff e.g. college tutor.

B.3 Early planning for young people to benefit from FE is crucial, and this may be an objective included in the PEP. Good practice will involve the leaving care service taking the following steps.

Strategic planning

- LAs should establish strategic relationships with the colleges in their area and have information about the range of courses they provide.
- Colleges have protocols of how to support care leavers, including a point of contact at college (a single Designated Member of Staff who knows all CLA and sees PEPs), assistance in school/college transition, and admissions policies to guarantee interviews for care leavers.
- Leaving care worker/PA attends with young person and carer any interview.
- Confidentiality – ask the young person's permission. (Default position is that the in care/care leaver status is only known by the Designated Member of College Staff).

Good Practice with Individual Young People

- Discuss with the young person their options during Year 11;
- Gain young person's written consent to share information;

- Complete the PEP in Year 12/13, with carer, social worker, PA and Designated Member of Staff in school or college. Provide copies to all invited or involved (with young person's permission for those who were not in attendance);
- Submit applications early;
- Young person attends college interview with carer and PA;
- Maintain PEP with the young person, PA, Designated Member of College Staff, carer and social worker.

Higher education

B.4 Young people making the transition from a care placement or semi-independent accommodation to Higher Education, or Residential Further Education institutions and settings face particular challenges. These challenges may include moving away from their responsible local authority to a setting where support systems may not be known to the young person.

B.5 Young people and their carers should be provided with information about the university application process and UCAS. Every care leaver must be provided with all the support they need to complete the University and Colleges Admissions Service (UCAS) form. Similarly, the young person's PA, carers, mentor or other trusted adult should make time to accompany the young person so that they can visit the universities where they may be interested in making an application.

B.6 In order to assist young people and those that work with them, the local authority should set out in the leaving care financial policy what support it will provide to care leavers attending university, *in addition* to the statutory HE Bursary.

B.7 For example:

- A living and maintenance allowance (term time and vacations);
- An accommodation grant (term time and vacations) – this may involve providing allowances to enable young people to remain with their previous foster carers during the whole course, or to return to them in the vacations. It may also be used to fund university halls of residence and/or independent accommodation; and
- How the authority will assist young people with the provision of stationary, books and equipment, including a computer and travel and educational visits.

B.8 To ensure young people are not isolated, particularly at the beginning of their courses, the local authority may also need to consider additional funding so that young people can visit previous foster carers, family and friends and enable foster carers to visit them.

B.9 Many young people now enter university via access courses and other flexible learning frameworks in addition to the formal A level route. Local authorities should set out in a format easily accessible by all its looked after children and care leavers how they will assist young people to enter higher education via these flexible learning frameworks.

B.10 The majority of higher education establishments and universities provide additional support to young people leaving care, in recognition of the additional hurdles that they have, and continue to face. PAs and young people should explore what additional support is provided by each university as part of the process of considering applications to individual establishments. The university's students' support service should be able to provide information on the type and level of practical and financial support available.

Appendix C

Planning suitable accommodation for care leavers

Tenure for 16/17 year olds

C.1 One option is for the landlord to provide the minor with an *agreement for a lease*. This is effectively a promise to provide a lease at some point in the future such as the minor's 18th birthday; it is a contract between the landlord and the minor whereby the landlord undertakes to provide the minor with a tenancy when he or she reaches 18 years of age. The agreement would include the terms of the lease. Where there is an agreement for a lease and the "tenant" takes up occupation of the accommodation this will create an equitable tenancy. An equitable tenancy is not a legal tenancy and does not convey an estate in land. However, both the landlord and the tenant would be able to seek to enforce the terms of the tenancy in the courts.

C. 2 Another option is for the landlord to grant a legal tenancy to a trustee to hold on behalf of the minor until he or she reaches 18. The trustee could, for example, be an adult member of the young person's family. It is open to the local authority to act as the trustee unless the same local authority will also be the young person's landlord. It is established that a minor's landlord should not hold the tenancy on trust for them because the roles of trustee and enforcing landlord conflict, which among other things would prevent the landlord from recovering possession of the property. It follows from this that *in unitary local authorities with their own social housing stock*, children's services should not act as trustee for young residents of local authority property.

Appendix D

Good practice promoting care leavers' health and wellbeing

D.1 Each young person's pathway plan must take account of the assessed health needs of the young person and set out clearly how these are to be met. Particular attention must be given to their need for support in taking responsibility for his/her own health and in accessing appropriate services, including information and advice.

D.2 A healthy lifestyle also requires that proper attention is given to social, recreational and sports activities.

D.3 Multi-agency approaches are particularly crucial for care leavers as health needs cannot be separated from wider needs. There is an important health promotion and health advisory role for the health services in supporting care leavers in registering with a GP and accessing a dentist as they are expected to become more independent. The young person's PA will have a key role in supporting care leavers to be registered with the health services.

D.4 Young care leavers value supportive and friendly health professionals want to remain with the same GP and like young people's clinics. It is important that services are accessible and 'user friendly' to young people. Over use of Accident and Emergency Departments can result from young people not knowing how to make appointments.

D.5 Care leavers consistently take a holistic view of health when asked about their views on what helps them to be healthy and what impacts adversely. The five most important factors cited in one study³⁹ were:

- Feelings about life
- Housing
- Close personal relationships
- Care experience
- Depression

D.6 Mentoring may offer an important experience for care leavers who value it for helping them with relationship problems, building confidence and improving emotional wellbeing.

D.7 Some care leavers will need particular support as part of the transition planning. These include:

- Young people with emerging mental illness and personality disorder

³⁹ Saunders L and Broad B (1997) The Health Needs of Young People Leaving Care. De Montfort University

- Young people (perhaps with mild to moderate learning difficulties or disabilities) who will not require specialist services but who will need a pathway planning package to reflect their delayed maturation

D.8 Young people's health needs do not cease because they have ceased to be looked after.

D.9 It will be good practice for each leaving care team to have at least one PA with an understanding of how mental health services are provided to children (CAMHS) and to adults. The post holder should be able to advise their team about how to refer young people for the most appropriate intervention where there are signs of the onset of mental health problems. They should understand arrangements for sharing information across health services for children and adults and have the confidence and communication skills necessary to brief health professionals about the needs of individual care leavers. Where young peoples' needs fall below the threshold for intervention from adult mental health services, the PA fulfilling this function might have a role to identify alternative sources of support. The PA taking on this important role should have access to specialist mental health services.

How leaving care services can promote positive health and well being

One local authority Leaving Care Service provides a range of health and well-being services for care leavers including:

- A weekly health drop-in run by the leaving care nurse on two sites in the city, and one to one work with young people outside of the drop in sessions.
- A parenting group for care leavers who are pregnant or are parents offers 10 sessions covering topics to do with parenting and practical life skills such as money, housing and continuing education and training.
- A cook and eat group for young care leavers runs at a local youth cafe in partnership with the youth service. The young people get a chance to practice healthy eating and take part in other inclusive activities for young people at the cafe.
- A weekly football group for care leavers.
- A weekly dance group
- A sexual health mentoring project
- Training is provided for leaving care staff in promoting sexual health.

Access to help with health costs

D.10 Children and young people looked after and care leavers who are aged 18 and under will generally be exempt from the majority of NHS health charges due to

undertaking full time education and training courses – such charges include NHS prescription, dental charges and sight tests (free to young people under 19 and undertaking full time education).

D.11 For other young people (aged 16 and 17) who are not undertaking full time education or training courses and who receive financial support from their responsible authority, there are arrangements for claiming help with health costs. Such young people will be fast-tracked to help through the NHS Low Income Scheme. They will need to fill in either a short claim form HC1 (SC) or full HC1 form to give details of their name and address and the name and address of the Local Authority which supports them. The form should then be sent off in the envelope provided. It will be dealt with immediately on receipt and an NHS exemption from charges certificate (HC2) for full help sent to the young person.

D.12 The HC1 (SC) and HC1 can be obtained from Jobcentre Plus offices, NHS hospitals and from some doctors, dentists and opticians. You can also get a copy of the HC1 (SC) and HC1 form by contacting the NHS Forms order line on 0845 610 1112 or by email from the following address: nhsforms@spsl.uk.com

D.13 For more information about how to claim, please contact the Health Cost advice line on 0845 850 1166.

D.14 These certificates will last for 12 months or until the young person's 18th birthday, whichever is longer.

D.15 Lone parents and sick and disabled young people in receipt of Income Support or Employment and Support Allowance will be exempt from NHS prescription, dental charges and sight tests charges by virtue of their Income Support or Employment and Support Allowance claim.

D.16 Young people aged over 18 who are being supported by the local authority and do not automatically qualify for an exemption, for example, young people being financially supported to undertake education courses, should complete an HC1 form and submit the form together with information from the local authority about the level of support. Young people will then be sent an NHS full exemption from charges certificate (HC2) or a partial exemption from charges certificate (HC3) depending on their level of income.

D.17 Full details of the help available is in leaflet HC11 'Help with health costs?' which is available from main post offices, Jobcentre Plus offices, NHS hospitals and some NHS practitioners. It is also on the NHS Choices website at <http://www.nhs.uk/healthcosts>.

D.18 Information about HC11 'Help with health costs?' is also available at <http://www.nhs.uk/NHSEngland/Healthcosts/Documents/hc11-april-2013.pdf>

D.19 Local authorities will need to set out how they will assist young people with health related expenses at the age of 16 and 17 and then again at the age of 18 and above. For example the HC2 exemption certificate will provide free sight tests and a voucher for basic spectacle frames. Local authorities may choose to supplement the basic voucher to ensure young people have access to a range of spectacle frames rather than the basic minimum.

D.20 Local authorities should hold a small supply of these forms HC1 (SC) and the (somewhat longer) HC1 claim form and give one to each young person as soon as a decision to provide any form of financial support is made.

Appendix E

Further information about good practice in providing financial support

Setting up home allowances

E.1 It will be good practice that this allowance will generally be spent in stages; initially on semi-independent needs and subsequently, on independent accommodation needs. In addition, the allowance may need to be spent collaboratively, with the young person's PA, like a responsible parent, guiding the spending and assisting them to maximise and get value for money from their allowance. The allowance can be used to assist with the development of financial capability and budgeting skills.

E.2 Young people, foster carer/s, residential workers and where appropriate family members should be encouraged to set up a 'dowry' or 'bottom drawer' of items that can be saved and used when the young person sets up their home. Saving should be encouraged by responsible corporate parents and where young people have collected items for independent living they should not be penalised, and should remain entitled to their full allowance.

E.3 Each local authority should ensure they have a policy that sets out the level of the setting up home allowance, how it will be used and any conditions for its use reflecting local priorities.

E.4 The setting up home allowance policy should consider:

- The provision of the first television license;
- The provision of the first household contents insurance premium;
- Ensuring any gas/electrical goods are installed by an approved fitter;
- Removal costs between semi-independent and independent accommodation;
- A decorating grant and practical assistance ensuring accommodation is furnished to a sufficient standard;
- Health and safety items such as a door chain, spare keys, carbon monoxide and smoke detectors (where not fitted), fire blankets and basic first aid equipment.

E.5 Local authorities may find it helpful to develop inventory sheets that set out the items the young person has purchased, the accumulated spend and any remaining allowance. These records would be helpful for young people, PAs and local authorities in terms of audit, and assessing how well the young person is managing their allowance.

E.6 Early planning regarding the use of the setting up home allowance will help to ensure that young people, carers and PAs can maximise its value.

E.7 Local authorities need to recognise that not all young people will be successful the first time they try to live independently, and that they may need this help more than once. Additionally, young people may have items damaged or lost through no fault of their own and may require assistance to replace essential items.

National insurance numbers

E.8 All young people should automatically receive a National Insurance Number at the age of fifteen and nine months. The National Insurance Number is sent to the address where Child Benefit is being claimed for the young person. As the majority of children looked after do not have a Child Benefit claim, National Insurance Numbers do not automatically get issued. At the age of fifteen and nine months the social worker for the young person should contact the New Registrations Section of the National Insurance Number Office, HMRC, to instigate the process of obtaining the National Insurance Number. For detailed guidance see:

<http://www.hmrc.gov.uk/manuals/nimmanual/NIM39310.htm>

Welfare benefits – eligible and relevant young people aged 16 and 17

<p>Disabled care leavers and lone parents aged 16 & 17</p>	<p>Disabled young people</p> <p>Unlike other care leavers, those who are disabled may be entitled to receive means tested welfare benefits under the age of 18, in which case they receive Employment and Support Allowance and in certain circumstances specific premiums. This however does not apply to Housing Benefit or Local Housing Allowance.</p> <p>This group may also be entitled to a Disability Living Allowance which is provided to meet their financial care and mobility needs stemming from their disability</p>
<p>These benefits can be claimed whilst young people live in foster care.</p>	<p>Lone parents</p> <p>Lone parents may be able to claim Income Support, Child Tax Credits (Family, Baby and Child Element), Child Benefit, Healthy Start Vouchers and qualify for a Sure Start Maternity Grant from the day of the birth of their baby.</p> <p>Disabled care leavers and lone parents continue to be entitled to the provision of accommodation or the means to secure accommodation by the local authority. Leaving care finance policies should set out how looked after young people and care leavers who are entitled to welfare benefits will be effected by these entitlements.</p>

Income support – further education and training

<p>Former relevant young people aged 18 and older</p>	<p>Further education</p> <p>Former Relevant young people who remain ‘estranged from their family’ can claim Income Support on the grounds of being in ‘Relevant Education’ from his/her 18th birthday until his/her 21st birthday as long as they started or were enrolled or accepted on the course prior to his/her 19th birthday.</p> <p>The education/training course must be below higher education level and be full time (at least 12 hours of contact time). Lone parents and sick and disabled young people under certain circumstances may continue to be eligible to claim means tested welfare benefits whilst studying full time further education, even if they commence the course after their 19th birthday.</p> <p>An Adult Learners Grant cannot be paid in addition to Income Support (or any out of work benefits) but can be claimed by those on Housing Benefit or Council Tax Benefit, but will be taken into account when calculating these benefits.</p>
<p>Former relevant young people aged 18 and older</p>	<p>Higher education</p> <p>Lone parents and sick and disabled young people under certain circumstances may continue to be eligible to claim means tested welfare benefits whilst studying higher education courses. They will be required to claim student funding (student maintenance loans and grants), which will be taken into account when assessing the level of means tested benefit.</p> <p>Sick and disabled young people may be able to claim a Disabled Students Allowance and if they are attending Higher Education they can claim a Special Support Grant, which replaces the Student Maintenance Grant.</p>

Seeking employment

<p>Former relevant young people aged 18 and older</p>	<p>Jobseekers Allowance – unemployment</p> <p>Former Relevant young people can claim Jobseekers Allowance if they are ‘available for work’.</p> <p>At the initial claim meeting a Job Centre Plus Personal Adviser will develop a ‘Jobseeker’s Agreement’ with the young person, showing:</p> <ul style="list-style-type: none"> • the young person’s availability for work • the kind of work they want and how they will look for the type of work • how they might improve their chances of finding a job • the help and support the Job Centre Plus will provide. <p>Young people leaving care can be offered immediate access to a variety of employment programmes for which the standard unemployment qualifying period is six months.</p> <p>In certain circumstances young people can claim Jobseekers Allowance if they are studying less than 16 hours per week and are available for work. In reality, studying under these restrictions can be very disruptive as the young person can be sent for interviews, or be required to attend work focused appointments at short notice. Where education courses are defined as part time (under 16 hours) and young people have a part time job they may be eligible to claim Housing Benefit or Local Housing Allowance on the basis of a low income.</p>
<p>Former relevant young people aged 18 and older</p>	<p>Benefit sanctions</p> <p>Young people who leave a job without good reason and/or are dismissed may be subject to a benefit sanction of up to 26 weeks. During that period, they may not be eligible to claim Jobseeker’s Allowance, but may be able to claim Income Support, but at a reduced rate.</p>
<p>Savings and tariff income</p>	<p>Savings and tariff income</p> <p>Where young people have funds of their own, such as legacies, trust funds, money in savings and bank accounts, other than Criminal Injuries Compensation Awards (CICA are disregarded for benefit purposes for 52 weeks after receipt of the award), they should be made aware of how the Department for Work and Pensions will treat capital.</p>

Young people in receipt of means tested benefits	Social Fund Young people, who are in receipt of means tested benefits, depending on their circumstances, may be eligible for Social Fund grants and loans such as Community Care Grants, Budgeting Loans and Sure Start Maternity Grants. Young people aged 16 or over and without resources to meet immediate short term needs are eligible for Crisis Loans.
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Appendix F

Transition to adulthood policies and protocols

The following list of policies and protocols may be used as a guide to assist local authorities to identify documentation that can support care leavers' transition to adulthood.

- Provision for the allocation of leaving care support to young people who are eligible, relevant or former relevant children
- The allocation of leaving care PAs (timing, gender, ethnicity issues)
- Consulting with young people and how their views contribute to developing/improving leaving care services
- Preparation for independence policy and strategy (e.g. setting out the authority's criteria for assessing a young person's readiness to move to more independent accommodation)
- Policy on reviewing pathway plans for relevant and former relevant care leavers (age 16 and 17, and 18 to 21/25)
- Financial Policy
- With sections or separate policies covering:
 - How fostering and residential finance policies will assist young people to prepare for independence
 - Leaving care entitlements for young people aged 16 and 17 living in foster care and residential care
 - Further education entitlements
 - Higher education entitlements
 - The amount and use of the setting up home allowance
 - 16 and 17 year olds in receipt of benefits
 - Incentives, contributions and sanctions
 - Emergency payments
 - Young people living at home
 - Young people returning for a service aged 21 to 25
 - Qualifying young people
 - Policy and protocol with DWP regarding supporting young people to claim benefits
- Information regarding:
 - Universal further education allowances and grants

- Universal higher education allowances, grants and bursaries and how to find out what additional allowances individual universities provide for care leavers (Buttle Trust information)
- A guide to means tested benefits for care leavers
- A guide to the identity and key documents that the local authority will provide to children looked after and care leavers
- Policy on information provided to young people about local authority and partner agency services
- Staying Put
 - Policy and protocol regarding the criteria and process of agreeing/approving a Staying Put placements and the implications for carers
 - Information for foster carers, staff and young people
- Protocol with YOT and Probation regarding roles and responsibilities for supporting care leavers also involved with youth justice services
- Policies and protocols regarding joint responsibilities for care leavers with multiple needs:
 - Young people with learning difficulties and disabilities – 16 and 17 year olds
 - Young adults with learning difficulties and disabilities – 18 years and older
 - Young people with mental health needs – 16 and 17 year olds
 - Young adults with mental health needs – 18 years and older

(These should also cover young people placed in other authorities who on reaching age 18 gain 'ordinary residence'.)
- Joint policies and protocols regarding the provision of semi-independent and independent accommodation with Registered Social Landlords, Housing Authorities and Housing Associations (and Supporting People and its successor).
- Policies and protocols on assessing, approving and monitoring/inspecting private semi-independent accommodation and support providers – non Ofsted registered.
- Policies and protocols on access to advocacy and informal (14 day) and formal complaints procedures.
- Policies and protocols with UK Borders Agency and other services regarding supporting care leavers who are UASC and care leavers who are failed asylum seekers/end of line cases.

Care Leavers (England) Regulations 2010

STATUTORY

INSTRUMENTS

2010 No. 2571

CHILDREN AND YOUNG PERSONS, ENGLAND

The Care Leavers (England) Regulations 2010

Made - - - - - *20th October 2010*

Laid before Parliament *25th October 2010*

Coming into force - - - *1st April 2011*

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SCHEDULE 1 — Matters to be dealt with in the pathway plan and review

SCHEDULE 2 — Matters to be considered in determining the suitability of accommodation

The Secretary of State for Education makes the following Regulations in exercise of the powers conferred by sections 23A(3), 23B(8)(c) and (10), 23D(2), 23E(1), (1B), (1C) and (2), 24B(6) and 104(4) of, and paragraph 19B(2), (3), (7) and (8) of Schedule 2 to, the Children Act 1989⁽⁴⁴⁾:

PART 1

General

Citation, commencement and application

1.— These Regulations may be cited as the Care Leavers (England) Regulations 2010 and come into force on 1st April 2011.

(1) These Regulations apply in relation to England only.

Interpretation

2.— In these Regulations—

“the 1989 Act” means the Children Act 1989;

“personal adviser” means the person appointed—

- (i) under paragraph 19C of Schedule 2 to the 1989 Act for an eligible child⁽⁴⁵⁾,
- (ii) under section 23B(2) for a relevant child, or
- (iii) under section 23CA(2) for a former relevant child⁽⁴⁶⁾;

⁽⁴⁴⁾1989 c.41. For the definition of “prescribed” see section 105(1). Sections 23A and 23B were inserted by section 2(1) and (4) of the Children (Leaving Care) Act 2000 (c.35) (“the 2000 Act”); section 23A was amended by paragraph 8 of Schedule 3 to the Children and Young Persons Act 2008 (c.23) (“the 2008 Act”); and section 23B(10) was amended by paragraph 9 of Schedule 3 to the 2008 Act. Sections 23D and 23E were inserted by section 3 of the 2000 Act; section 23D(2) was amended by paragraph 10 of Schedule 3 to the 2008 Act and section 23E was amended by section 22(3) to (5) of, and paragraph 11 of Schedule 3 to, the 2008 Act. Section 24B was inserted by section 4(1) of the 2000 Act and subsection (6) was amended by paragraph 13 of Schedule 3 to the 2008 Act. Section 104(4) was amended by paragraph 25(1) and (5) of Schedule 3, and Schedule 4, to the 2008 Act. Paragraph 19B of Schedule 2 was inserted by section 1 of the 2000 Act and amended by section 39 of, and paragraphs 1 and 27(1) and (3) of Schedule 3 to, the 2008 Act.

⁽⁴⁵⁾ Paragraph 19C of Schedule 2 was inserted by section 1 of the 2000 Act. For the definition of “eligible child” see paragraph 19B(2) of Schedule 2 to the 1989 Act and regulation 40 of the Care Planning, Placement and Case Review (England) Regulations 2010 (S.I. 2010/959).

“placement” has the meaning given in section 22C(6)⁽⁴⁷⁾;

“relevant child” has the meaning given in section 23A(2) and regulation 3; and

“responsible authority” means the local authority that last looked after the child⁽⁴⁸⁾.

(2) In these Regulations, save as otherwise appears, any reference to a numbered section is a reference to that section in the 1989 Act.

Relevant children

3.— For the purposes of section 23A(3), children falling within paragraph (2) are an additional category of relevant children.

(1) Subject to paragraph (3), a child falls within this paragraph if— (a)

the child is aged 16 or 17,

(b) the child is not subject to a care order, and

(c) on attaining the age of 16 the child was detained, or in hospital, and immediately before being detained or admitted to hospital had been looked after by a local authority for a period or periods amounting in total to at least 13 weeks, which began after the child attained the age of 14⁽⁴⁹⁾.

(2) In calculating the period of 13 weeks referred to in paragraph (2)(b), no account is to be taken of any period in which the child was looked after by a local authority in the course of a pre-planned series of short-term placements, none of which individually exceeded four weeks, where at the end of each such placement the child returned to the care of their parent, or a person who is not a parent but who has parental responsibility for them.

(3) For the purposes of this regulation—

(a) “detained” means detained in a remand centre, a young offender institution or a secure training centre⁽⁵⁰⁾, or any other institution pursuant to an order of a court, and

(b) “hospital” has the meaning given in section 275(1) of the National Health Service Act 2006⁽⁵¹⁾.

⁽⁴⁶⁾ Section 23CA was inserted by section 22(2) of the 2008 Act. “Former relevant child” has the meaning given in section 23C(1) of the 1989 Act and includes a former relevant child who falls within section 23CA(1) of the 1989 Act.

⁽⁴⁷⁾ Section 22C was inserted by section 8(1) of the 2008 Act.

⁽⁴⁸⁾ “Local authority” is defined in section 105(1) of the 1989 Act as, in relation to England, “the council of a county, a metropolitan district, a London Borough or the Common Council of the City of London”. Further, by virtue of the Isles of Scilly (Children Act 1989) Order 2010 (S.I. 2010/1116) any reference to a “local authority” in the 1989 Act is to be construed, in relation to the Isles of Scilly, as a reference to the Council of the Isles of Scilly.

⁽⁴⁹⁾ For the meaning of “looked after” see section 22(1) of the 1989 Act, as amended by section 107 of, and paragraph 19 of Schedule 5 to, the Local Government Act 2000 (c.22), section 2 of the 2000 Act and by section 116(2) of the Adoption and Children Act 2002 (c.38).

⁽⁵⁰⁾ For the meanings of “remand centre”, “young offender institution” and “secure training centre” see section 43(1)(a), (aa) and (d) of the Prison Act 1952 (c. 52). Subsection (1) was substituted by section 11 of the Criminal Justice Act 1982 (c. 48). Subsection (1)(aa) was inserted by paragraph 11 of Schedule 15 to the Criminal Justice Act 1988 (c. 33) and amended by section 18(3) of the Criminal Justice and Public Order Act 1994 (c. 33) and by paragraph 3 of Part 2 of Schedule 26 to the Criminal Justice and Immigration Act 2008 (c. 4). Subsection (1)(d) was substituted by paragraph 6 of Schedule 8 to the Crime and Disorder Act 1998 (c. 37) and amended by paragraph 5(1) and (2) of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).

⁽⁵¹⁾ 2006 c.41. There are amendments to section 275(1) which are not relevant to these Regulations. A “hospital” is defined as (a) any institution for the reception and treatment of persons suffering from illness, (b) any maternity home and (c) any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation, and includes clinics, dispensaries and out-patient departments maintained in connection with any such home or institution; “illness” is defined in that section as including any disorder or disability of the mind and any injury or disability requiring medical or dental treatment or nursing. ⁽⁵²⁾

Responsible authorities are required to carry out an assessment of needs for a relevant child by section 23B(3)(a) of the 1989 Act and, for a former relevant child who falls within section 23CA of that Act, by section 23CA(3)(a).

- (4) Subject to paragraph (6), a child who has lived for a continuous period of six months or more (whether that period commenced before or after they ceased to be looked after) with—
- (a) their parent,
 - (b) someone who is not their parent but who has parental responsibility for them, or
 - (c) where they were in care and there was a residence order in force immediately before the care order was made, a person in whose favour the residence order was made,

is not a relevant child despite falling within section 23A(2).

(5) Where living arrangements described in paragraph (5) break down and the child ceases to live with the person concerned, the child is a relevant child.

PART 2

Assessments of need and pathway plans

Involvement of relevant child or former relevant child

4.— In carrying out an assessment of needs under regulation 5, and in preparing or reviewing a pathway plan under regulation 6 or 7, the responsible authority must, unless it is not reasonably practicable—

- (a) seek and have regard to the views of the relevant or former relevant child to whom the assessment or pathway plan relates, and
- (b) take all reasonable steps to enable the relevant or former relevant child to attend and participate in any meetings at which their case is to be considered.

(2) The responsible authority must as soon as practicable provide the relevant or former relevant child with copies of—

- (a) the results of the assessment, (b) the pathway plan,
- (c) each review of the pathway plan

and must ensure that the contents of each document are explained to the relevant or former relevant child having regard to their level of understanding, unless it is not reasonably practicable to do so.

(3) The responsible authority must ensure that a written record is kept of the views obtained under paragraph (1)(a).

Assessment of needs

5.— The responsible authority must assess the needs of each relevant child who does not already have a pathway plan, and each former relevant child falling within section 23CA (*further assistance to pursue education or training*), in accordance with this regulation⁽⁵²⁾.

(1) The assessment of needs must be completed—

- (a) in the case of a relevant child who does not already have a pathway plan, not more than three months after the date on which the child becomes a relevant child, and
- (b) in the case of a former relevant child falling within section 23CA, not more than three months after the date on which the responsible authority are informed, in accordance with section 23CA(1)(c), that the former relevant child is pursuing, or wishes to pursue, a programme of education or training.

(2) The responsible authority must ensure that a written record is kept of—

- (a) the identity of the persons whose views have been sought for the purpose of carrying out the assessment,
- (b) the information obtained in the course of the assessment,
- (c) the deliberations at any meeting held in connection with any aspect of the assessment, and
- (d) the results of the assessment.

(3) In carrying out an assessment of the needs of a relevant child who does not already have a pathway plan, the responsible authority must—

- (a) take into account—
 - (i) the child’s health and development,
 - (ii) the child’s needs for education, training or employment,
 - (iii) the support available to the child from members of the child’s family and other persons,
 - (iv) the child’s financial needs,
 - (v) the extent to which the child possesses the practical and other skills necessary for independent living, and
 - (vi) the child’s needs for care, support and accommodation, and
- (b) unless it is not reasonably practicable or appropriate to do so, seek and take into account the views of—
 - (i) the child’s parents,
 - (ii) any person who is not the child’s parent but has parental responsibility for the child,
 - (iii) any person who on a day to day basis cares for, or provides accommodation for the child,
 - (iv) any school or institution within the further education sector attended by the child,
 - (v) the local authority for the area in which the child lives where that is different from the responsible authority,
 - (vi) the designated teacher at the school where the child is a registered pupil⁽⁵³⁾,
 - (vii) any person providing health care or treatment to the child,
 - (viii) any person by whom assistance by way of representation is provided to the child by virtue of arrangements made by the responsible authority under section 26A⁽⁵⁴⁾ (*advocacy services*),

⁽⁵³⁾ The “designated teacher” in the case of a maintained school means the member of staff designated by the governing body in accordance with section 20(1) of the 2008 Act. Academies, City Technology Colleges and City Colleges for the Technology of the Arts are required by their Funding Agreements to have a designated teacher. The Designated Teacher (Looked After Pupils etc.)(England) Regulations 2009 (S.I. 2009/1538) made under section 20(3) of the 2008 Act prescribe the qualifications and experience of the designated teacher.

⁽⁵⁴⁾ Section 26A was inserted by section 119 of the Adoption and Children Act 2002.

(ix) the personal adviser, and

(x) any other person whose views the responsible authority, or the child, consider may be relevant.

(4) In carrying out an assessment of the needs of a former relevant child falling within section 23CA, the responsible authority must—

(a) take into account—

(i) the former relevant child's needs for education, training or employment, and

(ii) any other considerations the responsible authority consider relevant, and

(b) unless it is not reasonably practicable to do so, seek and take into account the views of— (i) the personal adviser, and

(ii) any other person whose views the responsible authority, or the former relevant child consider may be relevant.

(5) In this regulation—

(a) “institution within the further education sector” has the meaning given in section 91(3) of the Further and Higher Education Act 1992⁽⁵⁵⁾,

(b) “registered pupil” has the meaning given in section 434(5) of the Education Act 1996⁽⁵⁶⁾, and

(c) “school” has the meaning given in section 4 of the Education Act 1996⁽⁵⁷⁾.

Pathway plans

6.— A pathway plan prepared under section 23B(3) (*relevant children*) or 23CA(3) must be prepared as soon as possible after the assessment of needs referred to in regulation 5 is completed.

(1) The pathway plan must include, in particular—

(a) in the case of a plan prepared under section 23B(3), the matters referred to in Schedule 1, and

(b) in the case of a plan prepared under section 23CA, the matters referred to in paragraphs 1 to 4 of Schedule 1.

(2) The pathway plan must, in relation to each of the matters included in it by virtue of paragraph (2), set out—

(a) the manner in which the responsible authority propose to meet the needs of the relevant or former relevant child, and

(b) the date by which, and by whom, any action required to implement any aspect of the pathway plan will be carried out.

(3) The pathway plan must be recorded in writing.

Review of pathway plans

7.— The responsible authority must review the pathway plan of each relevant and former relevant child in accordance with this regulation⁽⁵⁸⁾.

⁽⁵⁵⁾ 1992 c.13. Section 91(3)(c) was inserted by paragraphs 1 and 13 of Schedule 8 to the Apprenticeships, Skills, Children and Learning Act 2009 (c.22).

⁽⁵⁶⁾ 1996 c.56.

⁽⁵⁷⁾ That is, an educational institution, outside the further and higher education sectors, for providing primary and/or secondary education.

(1) The responsible authority must arrange a review—

(a) if requested to do so by the relevant or former relevant child,

(b) if the responsible authority, or the personal adviser, consider a review necessary, and

(c) in any event, at intervals of not more than six months.

(2) If the responsible authority provide the relevant child or former relevant child with accommodation under section 23B or section 24B, the responsible authority must also—

- (a) arrange a review as soon as is practicable after the end of a period of 28 days beginning on the day on which the accommodation is first provided, and
 - (b) on completing a review under sub-paragraph (a), determine at what intervals (not exceeding three months) subsequent reviews will be carried out.
- (3) In carrying out a review the responsible authority must—
- (a) to the extent it considers it appropriate to do so, seek and take account of the views of the persons mentioned in regulation 5(4)(b) or, as the case may be, regulation 5(5)(b), and
 - (b) consider whether, in relation to each of the matters set out in the pathway plan, any change is necessary.
- (4) The results of the review and any change to the pathway plan must be recorded in writing.

PART 3

Personal advisers

Functions of personal advisers

8.— A personal adviser has the following functions in relation to the relevant child or former relevant child for whom they are appointed—

- (a) to provide advice (including practical advice) and support,
- (b) where applicable, to participate in the assessment and the preparation of the pathway plan, (c) to participate in reviews of the pathway plan,
- (d) to liaise with the responsible authority in the implementation of the pathway plan,
- (e) to co-ordinate the provision of services, and to take reasonable steps to ensure that the child makes use of such services and that they are appropriate to the child's needs,
- (f) to remain informed about the relevant child's or former relevant child's progress and wellbeing, and
- (g) to keep a written record of contacts with, and of services provided to, the relevant or former relevant child.

(2) In addition, where accommodation is provided to a relevant child or former relevant child by the responsible authority under section 23B or section 24B, the personal adviser must visit the relevant child or former relevant child at that accommodation—

⁽⁵⁸⁾ Relevant authorities are required by section 23E(1D) of the 1989 Act to keep pathway plans prepared for relevant children and former relevant children falling within section 23CA under regular review. They are required by section 23C(3)(b) to continue to keep pathway plans of former relevant children under regular review.

- (a) within 7 days of the accommodation first being provided,
- (b) subsequently, before the pathway plan is reviewed under regulation 7(3), and
- (c) at subsequent intervals of not more than two months.

PART 4

Miscellaneous

Support and accommodation

9.— For the purposes of section 23B(8)(c) (*other support for relevant children*), the responsible authority must provide assistance in order to meet the relevant child’s needs in relation to education, training or employment as provided for in the pathway plan.

(1) For the purposes of section 23B(10), “suitable accommodation” means accommodation—

- (a) which so far as reasonably practicable is suitable for the relevant child in the light of their needs, including any health needs and any needs arising from any disability,
- (b) in respect of which the responsible authority have satisfied themselves as to the character and suitability of the landlord or other provider, and
- (c) in respect of which the responsible authority have, so far as reasonably practicable, taken into account the relevant child’s—
 - (i) wishes and feelings, and
 - (ii) education, training or employment needs.

(2) In determining for the purposes of paragraph (2)(a) whether accommodation is suitable for a relevant child, the responsible authority must have regard to the matters set out in Schedule 2.

(3) For the purposes of section 24B(5) (*provision of vacation accommodation*)—

- (a) “higher education” means education provided by means of a course of a description referred to in regulations made under section 22 of the Teaching and Higher Education Act 1998⁽⁵⁹⁾, and
- (b) “further education” has the same meaning as in section 2(3) and (5) of the Education Act 1996⁽⁶⁰⁾ save that for the purposes of this regulation it only includes further education which is provided on a full-time residential basis.

Records

10.— The responsible authority must establish and maintain a written case record for each relevant child and former relevant child (“the case record”).

(1) The case record must include the written records required by virtue of regulation 4(3), and regulation 5(3)(a) to (c), and the following records (“relevant records”)— (a)

- any assessment of needs,
- (b) any pathway plan,
- (c) any review of a pathway plan.

⁽⁵⁹⁾ 1998 c.30. Section 22(1) was amended by section 146(1) and (2) of the Learning and Skills Act 2000 (c.21); there are other amendments to section 22 which are not relevant to these Regulations.

⁽⁶⁰⁾ Section 2(3) was amended by Part 3 of Schedule 22 to the Education Act 2002 (c.32).

⁽⁶¹⁾ S.I. 2001/2874.

(2) Relevant records must be retained by the responsible authority until the seventy-fifth anniversary of the date of birth of the relevant or former relevant child to whom they relate or, if the child dies before attaining the age of 18, for a period of fifteen years beginning with the date of death.

(3) The requirement in paragraph (1) may be complied with by retaining the original written records or copies of them, or by keeping all or part of the information contained in them in some other accessible form such as a computer record.

(4) Relevant records must be kept securely and may not be disclosed to any person except in accordance with—

- (a) any provision of, or made under or by virtue of, a statute under which access to such records is authorised, or
- (b) any court order authorising access to such records.

Revocation of Regulations

11. The Children (Leaving Care) (England) Regulations 2001 are revoked⁽⁶¹⁾.

20th October 2010

Tim Loughton
Parliamentary Under Secretary of State
Department for Education

SCHEDULE 1

Regulation 6

Matters to be dealt with in the pathway plan and review

- 1.** The nature and level of contact and personal support to be provided, and by whom, to the child or young person.
- 2.** A detailed plan for the education or training of the child or young person.
- 3.** How the responsible authority will assist the child or young person in relation to employment or other purposeful activity or occupation.
- 4.** Contingency plans for action to be taken by the responsible authority should the pathway plan for any reason cease to be effective.
- 5.** Details of the accommodation the child or young person is to occupy (including an assessment of its suitability in the light of the child's or young person's needs, and details of the considerations taken into account in assessing that suitability).
- 6.** The support to be provided to enable the child or young person to develop and sustain appropriate family and social relationships.
- 7.** A programme to develop the practical and other skills necessary for the child or young person to live independently.
- 8.** The financial support to be provided to the child or young person, in particular where it is to be provided to meet accommodation and maintenance needs.

9. The health needs, including any mental health needs, of the child or young person, and how they are to be met.

10. Details of the arrangements made by the authority to meet the child's needs in relation to identity with particular regard to their religious persuasion, racial origin and cultural and linguistic background.

SCHEDULE 2

Regulation 9

Matters to be considered in determining the suitability of accommodation

1. In respect of the accommodation, the— (a) facilities and services provided, (b) state of repair, (c) safety, (d) location, (e) support, (f) tenancy status, and (g) the financial commitments involved for the relevant child and their affordability.
2. In respect of the relevant child, their— (a) views about the accommodation, (b) understanding of their rights and responsibilities in relation to the accommodation, and (c) understanding of funding arrangements.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Children Act 1989 ('the 1989 Act') and come into force on 1st April 2011. They revoke, and in part replace, the Children (Leaving Care) (England) Regulations 2001.

The Regulations make provision about support to be provided to certain children and young people who are no longer looked after by a local authority i.e. 'relevant children' (defined in section 23A(2) of the 1989 Act and **regulation 3**) and 'former relevant children' (defined in section 23C of the 1989 Act).

They re-enact provisions in the 2001 Regulations (other than those relating to 'eligible children' which are now contained in the Care Planning, Placement and Case Review (England) Regulations 2010) with minor changes. They also reflect a change made by the Children and Young Persons Act 2008 which inserted section 23CA into the 1989 Act, extending the duties of local authorities in relation to certain former relevant children who pursue further education or training.

These Regulations make provision about the way in which the local authority must carry out an assessment of the needs of relevant and former relevant children [**regulation 5**] and about the preparation and review of pathway plans, which are plans setting out the advice, assistance and support the local authority intend to provide [**regulations 6 and 7, and Schedule 1**].

They prescribe the functions of personal advisers appointed for relevant and former relevant children [**regulation 8**] and make provision about other support, the suitability of accommodation and the provision of vacation accommodation [**regulation 9, and Schedule 2**]. They provide for the establishment and keeping of records in relation to assessments and pathway plans [**regulation 10**].

The Children Act 1989 (Higher Education Bursary) (England) Regulations 2009

Statutory Instruments

2009 No. 2274

Made 21st August 2009

Coming into force in accordance with regulation 1.

The Secretary of State for Children, Schools and Families makes the following Regulations in exercise of the powers conferred by sections 23C(5B) and 104(4) of the Children Act 1989(1).

In accordance with section 104 (3A) and (3B)(2) of that Act, a draft of these Regulations was laid before Parliament and approved by a resolution of each House of Parliament.

Citation commencement and application

1. (1) These Regulations may be cited as the Children Act 1989 (Higher Education Bursary) (England) Regulations 2009 and come into force on the day after the day on which they are made.

(2) These Regulations apply in relation to the payment of the relevant amount for the purposes of section 23C(5A) of the Children Act 1989 (“the Act”) by a local authority in England to a former relevant child(3) who is pursuing a course of higher education started on or after 1st September 2008.

Relevant amount

2. For the purposes of section 23C(5A) of the Act, the relevant amount is £2,000 (“the higher education bursary”).

Meaning of higher education

3. For the purposes of section 23C(5A) of the Act, higher education means a course of higher education that is of at least two academic years’ duration and is designated by or under regulations made under section 22(1) of the Teaching and Higher Education Act 1998(4) on the date on which the former relevant child starts the course.

Provision as to payment of the relevant amount

4. (1) The local authority may pay the higher education bursary to a former relevant child as a lump sum or by instalments.
 - (2) In the case of a former relevant child who started higher education on or after 1st September 2008 but before 1st September 2009—
 - (a) if the higher education bursary is to be paid as a lump sum, it must be paid by 31st December 2009; or
 - (b) if the higher education bursary is to be paid by instalments, the first instalment must be paid by 31st December 2009 and the final instalment must be paid before the end of the final year of the course or not more than four weeks after the start of the fourth year of the course, whichever is the earlier.
 - (3) In the case of a former relevant child who starts higher education on or after 1st September 2009—
 - (a) if the higher education bursary is to be paid as a lump sum, it must be paid by 31st December
5. 2009 or not more than four weeks after the start of the first year of the course, whichever is the later;
or
 - (b) if the higher education bursary is to be paid by instalments—
 - (i) the first instalment must be paid by 31st December 2009 or not more than four weeks after the start of the first year of the course, whichever is the later; and
 - (ii) the final instalment must be paid before the end of the final year of the course or not more than four weeks after the start of the fourth year of the course, whichever is the earlier.
- (4) Before making any decision about payment of the higher education bursary the local authority must, as far as reasonably practicable, ascertain and give due consideration to the wishes and feelings of the former relevant child.
- (5) The local authority may withhold payment of any unpaid balance of the higher education bursary during any period when the former relevant child is not pursuing higher education in accordance with the pathway plan(5) for that person.

(6) The local authority may recover the whole of the higher education bursary or any part of it from a person to whom payment has been made if there has been a mistake as to the eligibility of that person for the payment.

Iain Wright Parliamentary Under Secretary of State Department for Children Schools and Families

21st August 2009

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Fran Fonseca

Lin Phillips

Trevor Akerman Sue Whitfield Howard Smith Richard Porter

Ian Stewart-Watson Maggie Pepper

Joanne Kavanagh

Elaine Davidson

References and resources to support looked after children's transition to adulthood

Organisation	You can find more information on	Contact Details
A National Voice (ANV)	National advocacy information	Web: http://www.anationalvoice.org/ General Enquiries: 0161 237 5577
Buttle UK	Grants for vulnerable young people	Web: www.buttleuk.org
Care Leavers Foundation	Grants for children in care	Web: www.thecareleaversfoundation.org/ General Enquiries: 01678540598
Catch 22/National Care Advisory Service (NCAS)	From Care2Work programme	Web (Catch22): http://www.catch-22.org.uk/FromCare2Work Web (NCAS): http://tinyurl.com/ntn5knt
Coram Children's Legal Centre	Free legal information, advice and representation to children, young people, their families, carers and professionals.	Web: http://www.childrenslegalcentre.com/
CoramVoice	Advocacy information and support	Web: http://www.coramvoice.org.uk/ Free phone: 0808 800 5792
Government statistics	Looked after children and Care leaver statistics	Web: http://tinyurl.com/k4xdn9t
National Youth Advocacy Service (NYAS)	Advocacy information and support	Web: http://www.nyas.net/ Freephone: 0808 808 1001
Social Care Institute for Excellence (SCIE)	General information, advice and useful links	Web: http://www.info4carekids.org.uk/
The Children's Commissioner for England	Young people's guides; surveys; reports; rights	Web: https://www.rights4me.org/
Who Cares? Trust	APPG; Care Leavers Week; Bullying guide; HE Handbook; Town Bank; and, Listen Up! event	Web: www.thewhocarestrust.org.uk General Enquiries: 0207 251 3117



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