

Leaving Care Policy Children (Leaving Care Act 2000) – Legal Framework

Definitions and duties

- 1.1 **eligible children** are children aged 16 & 17 who have been looked after for at least 13 weeks since the age of 14 and who are still looked after. This includes asylum seekers. It does not include young people who have had a series of planned short-term placements (respite care) none longer than 4 weeks and after each one returning to their parents or to someone with parental responsibility, nor does it include young people who return home to a parent or someone with parental responsibility for a period of 6 months or more. Until the young person has been living at home for 6 months they will remain an eligible or relevant child; if they are under a Care Order they will remain an eligible child until the Court discharges the Care Order or they attain the age of 18 years.

relevant children are children are those who were looked after on or after their 16th birthday and who have been looked after for at least 13 weeks since the age of 14 and who have left care. This includes young people who on reaching 16 years are detained in a remand centre, young offender institution or any other institution ordered by the court or in hospital and immediately prior to being detained or in hospital have been looked after for 13 weeks since the age of 14.

former relevant children are young people aged 18-21 who have been either **eligible** or **relevant children** or both. If the young person is still being helped by his **responsible authority** with education or training, he remains a **former relevant child** to the end of the agreed programme of education or training even if that takes him past the age of 21

qualifying children & young people over 16 are young people who cease to be looked after or accommodated in a variety of other settings, or privately fostered, after the age of 16.

the responsible authority is the local authority which last looked after the child or young person

The Children (Leaving Care) Act applies to children and young people as defined above whether they were in care because of a care order or were voluntarily accommodated under Section 20 of the Children Act.

It applies regardless of any other special status they may have. For example, unaccompanied asylum-seeking children who are looked after under Section 20 of the Children Act. Children who are remanded into local authority accommodation are also looked after children and the provisions of the Children (Leaving Care) Act therefore apply to them.

For care leavers not affected by the Children (Leaving Care) Act, Section 24 of the Children Act 1989 remains unchanged except for the addition at Section 24(5), which introduces a **DUTY** on local authorities to provide care leavers in Higher Education or pursuing residential Further Education courses with vacation accommodation or the means to secure it, should this be needed.

The local authority has a **DUTY** to advise and befriend a young person aged 16 to under 21 if he/she was formerly “looked after” by the authority beyond the age of 16, or accommodated by or on behalf of a voluntary organisation (Section 24(2)).

The local authority has a **POWER** to advise and befriend any young person who is under 21 and after reaching the age of 16 ceased to be;

- a) accommodated in a registered children’s home or
- b) accommodated by any health authority, NHS Trust or local education authority, or in any residential care home, nursing home or mental nursing home (provided that he/she was accommodated for at least 3 months) or privately fostered.

provided:

- the young person has asked for such help and
- the authority considers that the young person is in need of being advised and befriended,

and the person who formerly looked after him/her (if not the local authority) does not have the necessary facilities for advising and befriending him/her.

1.2 The local authority has a **DUTY** to advise, assist and befriend children looked after by it, with a view to promoting their welfare when they cease to be looked after. This duty needs to be carried out in the light of the general childcare principles on which the Act is based (Section 24(1) Children Act 1989).

1.3 The local authority has a **DUTY** to assess and meet the needs of **eligible** and relevant children; this includes the appointment of a Personal Adviser, the formulation of a Pathway Plan, accommodation and maintenance, assistance to achieve goals agreed within the Pathway plan (e.g. Educational goals) and to ‘keep in touch’ with relevant children and all the duties associated with Looked After Children in relation to eligible children.

1.4 Voluntary organisations have a **DUTY** to advise, assist, and befriend children accommodated by them and those carrying on registered children’s homes have a **DUTY** to advise, assist and befriend children accommodated in them, with a view to promoting their welfare when they cease to be so accommodated. (Section 61 (1)(c) Children Act 1989).

- 1.5 Sections 5 and 6 of the Disabled Persons (Services, Consultation and Representation) Act 1986 are designed to ensure a smooth transition from full-time education to adult life for a young person who is subject to a “statement of educational needs”. The local education department is required to obtain the view of the local social services department as to whether such a young person is disabled, at the first annual review of the statement of special educational needs, or the first re-assessment of the young person’s needs following the young person’s 14th birthday.

If the local social services department does consider that the young person is disabled, it must assess his/her needs, before he/she leaves full-time education, to decide what welfare services it has a duty to provide him/her with. (See the relevant sections of the 1986 Act).

- 1.6 If a **relevant** or **eligible child** enters or leaves the area and needs help, the second (receiving) local authority should provide short-term assistance under Section 17 of the Children Act 1989.

The second local authority should contact the **responsible authority** and agree with the young person on next steps. If the young person is not to return to his **responsible authority** arrangements should be made as to which authority will handle day to day arrangements and if necessary transfer resources dedicated to delivering the young person’s pathway plan to a new authority.

- 1.7 If a local authority has been advising and befriending a young person under Section 24 and becomes aware that he/she proposes to live, or does live, in the area of another local authority, it must inform the other local authority (Section 24(11)).

- 1.8 If a young person ceases, after reaching the age of 16, to be accommodated:

- a) by a voluntary organisation or in a registered children’s home, or
- b) by any health authority, NHS trust or local education authority, or
- c) in any residential care home, nursing home or mental nursing home,

then the organisation, authority or person carrying on the home must inform the local authority in whose area the young person proposes to live (Section 24(12)).