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Part 6 - Code of Practice on the exercise of social services functions in relation to Part 6 (looked after and accommodated children) of the Social Services and Well-being (Wales) Act 2014

Including children and young people who are leaving or who have left care

Issued under Section 145 of the Social Services and Well-being (Wales) Act 2014

Short title: Code of Practice on looked after and accommodated children

DRAFT

Contents

Preamble Provisions made in Part 6, context and purpose, and principles

Chapter 1 Care and support planning

Duties of local authorities in relation to care and support plans, including health and education

Chapter 2 Placements

How looked after children are to be accommodated and maintained

Chapter 3 Contact and visits

Contact with, and visits to, looked after children and children who have ceased to be looked after

Chapter 4 Review of cases

The role and functions of the Independent Reviewing Officer

Chapter 5 Leaving care

Arrangements for leaving care, personal advisers, pathway plans and assessments, suitable accommodation and support for higher education

Chapter 6 Post-18 living arrangements

Developing arrangements for care leavers aged 18 and above to continue living with their former foster carers

Chapter 7 Secure accommodation

Children accommodated in secure children's homes

Chapter 8 Children in other types of establishment

Children accommodated by health and education authorities, or in care homes or independent hospitals

DRAFT

Preamble

This code of practice is issued under section 145 of the Social Services and Well-being (Wales) Act 2014 (“the Act”).

The Social Services and Well-Being (Wales) Bill received royal assent on 1 May 2014 to become an Act of the National Assembly of Wales. For the purpose of Part 6 of the Act and this code, the Act will come into effect on 6 April 2016.

Local authorities, when exercising their social services functions, **must** act in accordance with the **requirements** contained in this code. Section 147 (Departure from requirements in codes) does not apply to any **requirements** contained in this code. In addition, local authorities must have regard to any guidelines set out here.

Social services functions are set out at schedule 2 of the Act. In this code a **requirement** is expressed as “must” or “must not”. **Guidelines** are expressed as “may” or “should/ should not”.

This code of practice contains guidance on the duties contained in Part 6 sections 74 - 125 of the Act , and regulations under sections 81, 83, 87, 97, 98, 99, 100, 101, 102, 104, 106, 107, 108, 109, 116, 117, 119 and 122 of the Act.

In exercising their functions relating to looked after and accommodated children, local authorities must have regard to their overarching duties to have due regard to Part 1 of the United Nations Convention on the Rights of the Child as set out in section 7 of the Act.

Local authorities also operate within the overall policy framework set by the Welsh Government. The Welsh Ministers’ policy intentions include seeking to de-escalate the need for formal intervention in the lives of children and young people, and to strengthen the capacity of families to care for their children wherever it is safe to do so.

Provisions made in Part 6

Part 6 of the Act (looked after and accommodated children):

(a) provides for the interpretation of references to a child or young person looked after by a local authority (section 74)

DRAFT

(b) requires local authorities

- to secure sufficient accommodation in their areas for the children they look after (section 75), and
- to accommodate children without parents or who are lost or abandoned or are under police protection, in detention or on remand (sections 76 and 77)

(c) provides for the functions of local authorities in relation to the children they look after (sections 75 to 103, 124 and 125)

(d) provides for the circumstances in which local authorities may or must provide support for young people

- leaving, or who have left, local authority care
- formerly accommodated in certain establishments
- formerly fostered
- with respect to whom special guardianship orders are or were in force
(sections 104 to 118)

(e) provides for the placement of children in secure accommodation (section 119)

(f) requires the assessment by local authorities of children who are accommodated by health authorities or education authorities or in care homes or independent hospitals and the provision of visits and services to those children (sections 120 to 123)

(g) introduces Schedule 1 which makes provision about contributions towards the maintenance of children looked after by local authorities.

The Welsh Government has sought to support implementation through a process that fully engages our stakeholders. Central to this approach has been the establishment of technical groups made up of representatives with the relevant expertise, technical knowledge and practical experience to work with officials on the detailed policy necessary to develop the regulations and code of practice which in turn will deliver the policy aspirations underpinning the Act. This code is one of the outcomes of that exercise of co-production.

Aim and scope

This code aims to set out local authority responsibilities under the Act for:

- care and support plans in relation to looked after and accommodated children and young people, including education and health
- the ways in which looked after children are to be accommodated and maintained, including placements of looked after children

DRAFT

- contact and visits to looked after and previously looked after children, including independent visitors
- arrangements for leaving care, personal advisers, pathway plans and assessments, suitable accommodation and support for higher education
- secure accommodation
- children accommodated in other types of establishment (by health and education authorities, or in care homes or independent hospitals).

This code of practice replaces previous statutory guidance on these issues.

This code should be read in conjunction with the code of practice on Part 11, which covers children and young people in youth detention accommodation, prison or bail accommodation. Certain provisions relating to how looked after children and care leavers are to be maintained and/or accommodated are dis-applied when the child or young person is convicted of an offence and detained within the secure estate. These are re-applied when the child or young person is released.

Context and purpose of this code of practice

The Act provides the statutory framework to deliver the Welsh Government's commitment to integrate social services to support people of all ages, and support people as part of families and communities. It will transform the way social services are delivered, primarily through promoting people's independence to give them stronger voice and control. Integration and simplification of the law will also provide greater consistency and clarity to people who use social services, their carers, local authority staff and their partner organisations, the courts and the judiciary. The Act promotes equality, improvements in the quality of services and the provision of information people receive, and a shared focus on prevention and early intervention.

Part 6 of the Act replaces Part 3 of the Children Act 1989. Section 17 of the Children Act (children in need) is not replicated in Part 6, as the assessment of children in need and their families, and the delivery of any services to meet those needs, is covered under the provisions on assessing and meeting the needs of individuals under Parts 3 and 4 of the Act.

Implementation of this code will need to be consistent with the code of practice relating to Part 2 of the Act, which sets out the Outcomes Framework for care and support. There will also need to be consistency with the duties under Part 11 relating to children and young people in youth detention accommodation or prison, to ensure that children and young people in these

DRAFT

settings who were looked after immediately prior to being sentenced to custody continue to have their needs assessed and met whilst in the secure estate. Children who are remanded to custody in the secure estate will become looked after (and come within the scope of Part 6) until they are either freed or sentenced to custody in the secure estate.

Principles

The Act places clear duties on individuals and local authorities when carrying out their functions in relation to looked after and accommodated children and young people.

A person exercising any functions under Part 6 must have regard to the overarching duties set out in section 6 of the Act. This means that anybody exercising functions in relation to a looked after or accommodated child or young person, or in relation to those leaving or who have left care (as categorised in section 104), must:

- ascertain and have regard to the child or young person's views, wishes and feelings, so far as is reasonably practicable
- have regard to the importance of promoting and respecting the child or young person's dignity
- have regard to the characteristics, culture and beliefs of the child or young person (including, for example, language)
- have regard to the importance of providing appropriate support to enable the child or young person to participate in decisions that affect them (to the extent to which this is appropriate in the circumstances, particularly where the child or young person's ability to communicate is limited for any reason).

Section 6(2)

Any person exercising functions under any part of the Act in relation to a child who has, or may have, care and support needs, or in respect of whom functions are exercisable under Part 6, must also:

- have regard to the importance of promoting the upbringing of the child by the child's family, in so far as doing so is consistent with promoting the child's well-being
- where the child is under the age of 16, ascertain and have regard to the views, wishes and feelings of those with parental responsibility for the child, in so far as doing so is consistent with the well-being of the child, and reasonably practicable.

Section 6(4)

DRAFT

The Act also places a specific duty (**section 7(2)**) on people exercising functions under any part of the Act to have due regard to Part 1 of the United Nations Convention on the Rights of the Child (UNCRC).

The code of practice in relation to Part 2 of the Act provides further guidance in relation to the UNCRC.

Further information for practitioners may be found at:

www.childrensrightswales.org.uk.

Information for children and young people may be found at:

www.uncrcletsgetitright.co.uk.

The principal duty of a local authority in relation to looked after children is set out and described in **section 78** of the Act. The principal duty is that a local authority looking after a child must:

- safeguard and promote the child's well-being
- make such use of services available for children cared for by their own parents as appears to the authority reasonable in the child's case.

Safeguarding and promoting the well-being of a looked after child includes, for example:

- a duty to promote the child's educational achievement
- a duty to assess from time to time whether the child has care and support needs, and to ensure that eligible needs are met.

In addition, section 78 specifies that before making any decision with respect to a looked after child (or a child the local authority proposes to look after), the local authority must have regard to:

- the views, wishes and feelings of any person whose views, wishes and feelings the authority considers to be relevant
- the child's religious persuasion, racial origin, and cultural and religious background.

There may be exceptional circumstances in which a local authority will have to exercise its powers in relation to a looked after child in a way which is not consistent with these duties, and a local authority is allowed to do this, but only for the purpose of protecting members of the public from serious injury.

Section 78(4)

The detailed provisions in this code have been written to reflect these overarching duties on local authorities and on the individuals in local authorities and other bodies who carry out any of the functions in Part 6.

DRAFT

Well-being outcomes

The overall purpose of Part 6 is to safeguard and promote the well-being of looked after and accommodated children and care leavers, and to enable each child or young person to achieve their personal well-being outcomes. Well-being is defined in **section 2** of the Act and in the national Outcomes Framework for people who need care and support and carers who need support. A child or young person's personal well-being outcomes will relate to the national well-being outcomes and will reflect the particular circumstances, needs and aspirations of the individual child or young person. The child or young person's views, wishes and feelings, and (where appropriate) those of their parents, will be crucial in determining what those personal outcomes are and how they can best be met. The extent to which a child or young person can contribute to, and participate in, defining and achieving those outcomes will depend upon their age and understanding, and they should be supported in this by a range of professionals and other people involved with them, including (as appropriate) their parents, family and friends, social workers, independent reviewing officers, independent visitors and advocates.

In general, the personal well-being outcomes for a child or young person will come under the following headings:

- protection from abuse and neglect
- promotion of physical and mental health and emotional well-being
- promotion of physical, intellectual, emotional, social and behavioural development
- maintenance or development of family or other significant personal relationships
- involvement in education, training and recreation activities
- development and maintenance of social relationships and involvement in the local community
- social and economic well-being (including not living in poverty)
- living in suitable accommodation.

Advocacy for looked after children and others specified under Part 10 of the Act

The entitlements of looked after children (and other specified people) to assistance (advocacy) exist under the Children Act 1989, and are therefore currently outside the scope of this code of practice.

Section 178 of the Act restates the existing statutory duties of local authorities to make arrangements for the provision of assistance (advocacy) to looked

DRAFT

after children, former looked after children and specified others who intend to make representations which fall within sections 174, 176 and 177. Those provisions are scheduled to come into force from April 2016.

A national approach to advocacy under the Act is being developed by the Welsh Government in partnership with local government, advocacy providers and the Children's Commissioner's for Wales. The outcomes of that work should be known later in the summer. In the interim, the duties owed to those children under the 1989 Act remain extant.

A draft code of practice for advocacy under Part 10 and other relevant provisions of the Act has also been issued for consultation alongside this code. That advocacy code specifies when local authorities must consider the advocacy needs of an individual, together with the range of circumstances where an individual may face additional risks or barriers that can heighten their needs for advocacy support.

These various workstreams will continue to inform each other to ensure consistency and coherence, and will influence the final version of the relevant codes which will be laid before the National Assembly for Wales towards the end of 2015.

DRAFT

Chapter 1: Care and support planning

Duties of local authorities in relation to care and support plans, including health and education

Purpose

Care and support planning and case reviews bring together children who are looked after, their families, carers and professionals, in order to plan the child's care and support and to review that plan on a regular basis. Assessing the needs of children and deciding how best to meet those needs is a fundamental part of social work with looked after children and is covered in more detail under the regulations and code of practice relating to Parts 3 and 4 of the Act. To do this effectively requires not only an understanding of the importance of planning but also the conceptual and practice framework for planning. The purpose of such a framework is:

- to ensure that children, their families and carers are treated with openness and honesty and understand the decisions that are made
- to provide clarity about the allocation of responsibilities and tasks, in the context of shared parenting between the child's parents, carers and the local authority in its role as a corporate parent, and to ensure that actions lead to improved outcomes
- to demonstrate accountability in the way local authorities exercise their functions under the Act.

Regulations set out the arrangements which the local authority must make for looking after a child. The making of a **care and support plan** is central to these requirements. The care and support plan for a looked after child will build upon any plan previously made under Part 4 of the Act. The care and support plan will contain information about how the child's well-being and developmental needs will be met, as well as the arrangements for the current and longer term care for the child. It ensures that there is a long term plan for the child's upbringing (previously referred to as 'the permanence plan') to which everyone is working, including the team around the child, the child, and (where appropriate) the child's family. The care and support plan should be clear about the desired well-being outcomes for the child and the contribution each agency will make to achieving those outcomes. This clarity will support effective reviews of the child's case to monitor the progress made towards

DRAFT

meeting the short and long term goals for the child, the child's family and carers.

Relationship with other plans

The **care and support plan** is the overarching plan for the looked after child, bringing together in one place all the key information from the assessment of the child's developmental needs and from any other assessments of the child and his or her family. The Regulations also require the preparation of a **health plan**, a **personal education plan**, and a **placement plan** for the child, but these should all be incorporated into, and form an integral part of, the overall care and support plan for the child.

From the age of 16 the care and support plan will be subsumed within the young person's **pathway plan**, which will set out the actions which are necessary to support the young person make a successful transition to adulthood and greater independence.

Permanence

Achieving 'permanence' will be a key consideration from the time a child becomes looked after, and the care and support plan should set out how this is to be achieved. Permanence includes emotional permanence (attachment), physical permanence (stability), and legal permanence (who has parental responsibility for the child). Together these give a child a sense of security, continuity, commitment and identity. Permanence provides an underpinning framework for all social work with children and families, from family support through to adoption. Planning for permanence ensures that children have a secure, stable and loving family to support them through childhood and beyond, and one of the key functions of the care and support plan is to ensure that each young person has a plan for permanence by the time of the second review.

A range of options for permanence exists, all of which can deliver good outcomes for a child.

For many children, permanence is achieved through a successful **return to their birth family**, where it has been possible to address the factors in family life which led to the young person becoming looked after.

For other children, routes to permanence may include **care provided by family and friends**, particularly where such care can be supported by a legal

DRAFT

order such as a residence order, special guardianship order or, in a few cases, adoption.

Another important route to permanence is **long-term foster care** where attachments have been formed and it has been agreed (through the care planning and review process) that this is where the child will remain until they become an adult.

For children who are unable to return to their birth or wider family, **adoption** offers a lifelong and legally permanent new family.

Twin track, parallel planning or concurrent planning (any or all of these terms are in use and mean the same), may provide a means to securing permanence at an early stage for some looked after children.

The planning process, informed by contributions from all of the agencies involved with the child, and taking into account the child's wishes and feelings, will identify which option is most likely to meet the needs of the individual child. The details of this, and the arrangements for implementing it, will be set out in the care and support plan.

Special consideration will need to be given to achieving permanence for older children. These young people may not be able to live with their birth parents for a variety of reasons, may not wish to be in a foster home or to be adopted, but prefer to live in a children's home. Nevertheless, the care and support planning process must identify adults such as wider family and friends or other connected people who can provide emotional support and a long-term trusting relationship which will provide continuing support, particularly during periods of transition. Good quality work with families can help young people build bridges back to their parents, or to other family members who can provide that support even though it is not possible for the young person to live at home.

Placements

The Regulations require a local authority to draw up a 'placement plan' for a looked after child. This will form part of the overall care and support plan, and will set out in detail how the placement will contribute to meeting the child's needs as set out in the care and support plan. This will include how the placement will help achieve permanence (for example, by promoting positive contact to support the child to return home, or by helping the child move to an adoptive family), and with the way their needs will be met on a day to day basis. The placement plan must be developed in partnership with the child (where appropriate), the child's carer, the parent and the social worker; and it

DRAFT

must clearly record the contribution of all parties to the success of the placement. Detailed guidance on placements and placement planning is set out in Chapter 2 of this code.

Pathway plans

When a looked after child is about to turn 16, the local authority must prepare a pathway plan to assist that young person with the transition to adulthood and leaving care. The pathway plan will build upon the child's existing care and support plan, which will be subsumed within the pathway plan.

The pathway plan will capture the actions which will be necessary from the local authority, the young person's carer, young person, parent and other identified parties to assist the young person to make a successful transition from care. The pathway plan will continue once the young person turns 18. The pathway assessment and planning process should also determine and record what information, advice and assistance should be provided for the young person as they prepare for, and once they have left, care.

Detailed guidance on pathway planning is included in Chapter 5 of this code.

Child protection plans

When a child who is the subject of a child protection plan (under section 47 of the Children Act 1989) becomes a looked after child, it will usually no longer be necessary to maintain the child protection plan for that child. However, in a few cases there will continue to be safeguarding issues, and the looked after child will also need to have a child protection plan.

The systems and processes for reviewing child protection plans and care and support plans for looked after children should be carefully evaluated by the local authority, and consideration given to how best to ensure the child protection aspects of the care and support plan are reviewed as part of the overall reviewing process leading to the development of a single plan. Given that a review is a process and not a single meeting, both reviewing systems should be aligned in an unbureaucratic way to enable the full range of the child's needs to be considered in the care and support planning and review process.

It should be noted that there are different requirements for the independence of the independent reviewing officer (IRO) function compared to the chair of the child protection conference. It is also important to note that the child protection conference is required to be a multi-agency forum, while children and young people generally want as few external people as possible at a

DRAFT

review meeting where they are present. However, it will not be possible for IROs to carry out their statutory function without considering the child's safety in the context of the care and support planning process. Consideration should be given to the IRO chairing the child protection conference where a looked after child remains subject to a child protection plan. Where this is not possible, the IRO should attend the child protection review conference.

This means that the timing of the review of the child protection aspects of the care and support plan should be the same as the review under the Care Planning, Placement and Case Review (Wales) Regulations, to ensure that up-to-date information about the child's welfare and safety is considered within the review meeting and informs the overall care and support planning process. The looked after child's review, when reviewing the child protection aspects of the plan, should also consider whether the criteria continue to be met for the child to remain the subject of a child protection plan. Significant changes to the care and support plan should only be made at the looked after child's review.

Care planning process

For those children who are already known to social services at the point at which they become looked after, an up-to-date assessment, and a plan for the provision of services under section 54 of Part 4 of the Act, may already be in place. Unless there are well-evidenced reasons for a change of direction, the care and support plan should complement and build on the existing plan for the child. Where a child has not been assessed before becoming looked after, an assessment will be required to inform the care and support plan.

Individuals who need care and support, and their families, will be able to fully participate in the assessment and in the care and support planning process, and should have all the relevant information made available to them in a format that is accessible to them, including through their language of need and preferred means of communication. Information should be accessible through the medium of Welsh and English, reflecting the Welsh Government's Strategy "More Than Just Words". The process of identifying care and support needs, and preparing a care and support plan, must ensure that people are empowered to express their needs and are able to fully participate as equal partners. To achieve this, the care and support plan should build on the care and support plan requirements under Part 4 of the Act, and:

- describe the identified developmental needs of the child and the services required to meet those needs, including services to be provided to family members

DRAFT

- describe why a particular type of placement has been chosen
- include specific, achievable, child-focused outcomes intended to safeguard and promote the well-being of the child and identify how progress will be measured
- include realistic strategies and specific actions to bring about the changes necessary to achieve the planned outcomes
- clearly identify and set out the roles and responsibilities of family members, the child's carers and practitioners (including for example GP, nurse and designated person in schools), and the frequency of contact of those practitioners with the child, the carers and /or family members
- describe the review arrangements if the proposed care and support plan for the child is not achievable, in order to reduce delay.

The specific requirements for planning to meet health and education needs are outlined in more detail later.

It is essential when planning a placement to consult all those concerned with the child. The need for consultation should be explained to the parents and the child. The local authority should co-ordinate the involvement of all relevant agencies and all the individuals who are significant in the child's life. Before making any decision about a child they are looking after (or propose to look after) a local authority must (in addition to the matters set out in section 6(2) and (4) and 7(2) (other overarching duties) of the Act), have regard to:

- the views, wishes and feelings of any person whose views, wishes and feelings the authority considers to be relevant
- the child's religious persuasion, racial origin and cultural and linguistic background.

The critical issue for practitioners and their managers will be deciding which interventions are likely to be most effective for a particular child, and the child's family or carers, in order to achieve the best possible outcome in the circumstances. The nature of the intervention will depend on the identified permanence option for the child in the context of the assessment of their developmental needs. The following questions should be addressed when considering the most appropriate intervention:

- what are the options for interventions which might help to support strengths and/or meet identified needs?
- what resources are available?
- which agency or professional approach is the child, family and/or carer most likely to respond to?

DRAFT

- which intervention is most likely to produce the most immediate benefit and which might take more time?
- what should be the sequence of the interventions and why?
- in considering a return home, what is the likelihood of achieving sufficient change within the child's timeframe?

Review

The process of review is ongoing and starts from the monitoring of an existing care and support plan. It is important to distinguish between reviewing as a process of continuous monitoring and reassessment, and the review of the care and support plan, which is the event when a child's plan may be considered, reconfirmed or changed, and such decisions agreed and recorded.

Careful judgement is required to ensure that the timing of the review of the care and support plan reflects an individual's needs and the objectives of the plan, and that it takes account of diversity.

Key issues to be addressed in the review process are:

- the child's participation
- the appropriate involvement of other agencies
- supervision and oversight by responsible managers
- the extent to which progress is being made towards achieving the identified outcomes.

Arrangements for looking after a child

The requirement to develop a care and support plan for a child who will or has become looked after applies both to an accommodated child and a child who is subject to the requirements of section 31A of the 1989 Act (although the court will set the timetable for the latter).

The care and support plan for an accommodated child

Most children who start to be looked after have been known to social services for some time. Where a child is to be accommodated it should therefore be possible to begin the care and support planning process in advance of the care episode. Where this is not possible, the care and support plan must be prepared within ten working days of the start of the first placement. The assessment of the child's needs must consider whether the accommodation to be provided for them meets the requirements set out in section 81 of Part 6

DRAFT

of the Act and the Care Planning, Placement and Case Review (Wales) Regulations 2015. The care and support plan will reflect the multi-agency contribution necessary to ensure that it addresses the full range of the child's well-being and developmental needs in order to achieve the agreed outcomes.

Where the child who is to be accommodated is a young person over the age of 16, and agrees to be provided with accommodation voluntarily, the care and support plan should be agreed with the young person.

The care and support plan for a child subject to section 31A of the 1989 Act (the Court care plan)

This section of the code should be read in conjunction with Volume 1 of the Children Act 1989 Guidance and Regulations (Court Orders) and the Public Law Outline (PLO).

Section 31A of the Children Act 1989 provides that where an application is made on which a care order might be made with respect to a child, the local authority must, within the timetable set by the Court, prepare a care and support plan. No order can be made until the Court has considered that plan. Where there are overlapping duties to prepare plans that are nationally or legally prescribed (for example a section 31A plan prepared for the purposes of Part 4 of the Children Act 1989), and there is a plan that meets the requirements for a care and support plan under Part 6 of the Act, the preparation, delivery and review of that plan can be regarded as the way for the local authority to meet its duties to prepare, deliver and review a care and support plan. The care and support plan is therefore critical and will be very influential in the Court's decision.

While there is no requirement for a formal agreement by the parent to the court care plan, the local authority will be aware of the principles underpinning article 8 of the European Convention on Human Rights concerning the 'right to respect for family life', and should ensure that parents are appropriately consulted and that the reasons why their views have or have not been acted upon are recorded.

An essential component of the court care plan is the long term plan for the child, which forms the 'permanence' element of the care and support plan for the child. The quality and robustness of this option will be critical as the Court considers whether the making of the care order is the most appropriate way to safeguard and promote the child's welfare. For interim hearings under section 38 of the Children Act 1989 this may not yet be a confirmed plan.

DRAFT

Court care plans and adoption

In a minority of applications for a care order it becomes clear during proceedings that adoption will be the preferred permanence option for the child. The local authority should ensure that, where they have identified adoption as the planned permanence option (whether at the point of the commencement of care proceedings or during the course of those proceedings), the placement order application is made as part of care proceedings.

Corporate parenting and Court care plans

As outlined above, the care and support plan for the young person encompasses both the plan for permanence and the actions to be taken by the local authority and multi-agency partners to achieve this, as well as details of the child's current day-to-day parenting needs and how they will be addressed. The Court will require information which enables it to consider whether the threshold criteria at section 31(2) – significant harm – are satisfied and whether making any order will be better for the child than making no order.

It may not therefore be necessary to present to the court all the detail contained in the care and support plan developed by the local authority to fulfil its corporate parenting functions.

The content of the care and support plan

There are specific requirements regarding the preparation and the content of the care and support plan for a looked after child, in addition to the common requirements set out in the code on Part 4 of the Act. It is important that the care and support plan records information which will help the child, the child's parent and the carer to understand why decisions have been or are being made. The regulations specify that the care and support plan should set out:

- the information about the long term plan for the child, including timescales (the permanence option)
- the arrangements to meet the child's well-being and developmental needs
- arrangements for contact with a brother or sister or step-brother or step-sister who is also looked after but not placed with the child
- details of any court orders made under section 8 or section 34 of the Children Act 1989

DRAFT

- arrangements for promoting and maintaining contact with a parent and anyone else with parental responsibility
- details of the placement and why the placement was chosen, unless the child is in care and not provided with accommodation by the local authority
- the name of the child's Independent Reviewing Officer
- details of the health plan and personal education plan (PEP)
- the wishes and feelings of relevant people about the arrangements for the child
- the wishes and feelings of these people about any proposed changes to the care and support plan.

Where a care and support plan is not meeting the needs of the person to whom it relates then the care and support plan must be reviewed.

Care and support planning in relation to health

Local authorities must, in partnership with local health boards, ensure that the child is provided with good health care, and that arrangements are in place to monitor the child's health care in accordance with the child's health plan.

Health care includes:

- medical and dental care and treatment
- advice and guidance on health, personal care and health promotion issues.
- mental health
- emotional health and resilience.

Health assessments

The local authority is required to make arrangements for a registered medical practitioner, registered nurse or a registered midwife (under supervision) to carry out an assessment of the child's state of health, and to provide a written report of the assessment. The aim of the assessment is to provide a comprehensive health profile of the child, to identify those issues that have been overlooked in the past and that may need to be addressed in order to improve overall physical and mental health and wellbeing, and to provide a basis for monitoring their development while the child is being looked after.

The assessment and report must address the matters specified in the Regulations. This applies to the first and subsequent assessments and reports. A copy of each report must be given to the local authority (as the corporate parent for the child), the child (subject to age and level of understanding, the parents (unless inappropriate in relation to circumstances

DRAFT

articulated in the child's care and support plan), the child's carers, and the young person's Independent Reviewing Officer.

It is the responsibility of the local authority to make sure that health assessments are carried out. Local health boards have a duty to comply with requests by local authorities for assistance to make sure that the assessment happens. The local authority must inform the local health board (or the NHS Commissioning Board and any relevant clinical commissioning group if a child is being placed in England), as well as the general medical practitioner, when a child starts to be looked after or changes placement. Where the child is to be placed out of area, local authorities must notify the local health board for the area in which the child is currently living, and also the local health board and the local authority (or local authority in England) for the area in which the child is to be placed.

Assessments must be carried out by a registered medical practitioner, a registered nurse, or by a registered midwife (so long as this is done under the supervision of a registered medical practitioner).

To inform the actions in the health plan, the health assessment should include:

- an assessment of the child's state of health, including physical, emotional and mental health
- the child's health history, including (as far as practicable) the family health history
- the effect of health and health history on the child's development
- existing arrangements for medical and dental care, appropriate to the child's needs, including:
 - routine checks of their general state of health, including dental health
 - treatment and monitoring for identified health (including physical, emotional and mental health) or dental care needs
 - preventive measures such as inoculation
 - screening for defects of vision or hearing
 - advice and guidance on promoting health and effective personal care
- planned changes to current arrangements.

Frequency of health assessments

The first assessment should take place, and the written report completed, before the child is first placed by the local authority. If this is not practicable,

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then the assessment and a written report should be complete before the first review of their case.

Health assessments should take place:

- at least once every six months in the case of children aged under five
- at least once every 12 months in the case of children aged five and over.

The first five years of a child's life are fundamental. Local authorities, working in partnership with local health boards and practice-based commissioners and providers of services, should ensure that looked after children have access to the universal programme of health and development reviews and services that they need to receive if they are to achieve their optimum health and well-being.

If a health assessment has been carried out within the three months prior to the commencement of the placement, and the local authority has received a written report that meets statutory requirements, then an assessment does not need to be carried out before the placement or in time for the first review, if it is satisfied that no significant changes have occurred within the period since the assessment was made. The cycle for future health assessments must start from the date of the first review.

Many looked after children return to birth parents when they cease to be looked after, so it is good practice to involve parents in health assessments. This provides an opportunity to obtain child and family health history directly, as well as to obtain consent to gather further necessary data from GPs, consultants and hospitals. Having a complete personal and family health history will considerably enhance the value of all current and future health assessments, and will facilitate better awareness of health needs when a child returns home or, where return home is not possible, in other permanence arrangements or in future placements. Where a child is accommodated by the local authority, the parents should be given the opportunity to be involved in the child's health assessment unless to do so would not be in the best interests of the child's well-being.

Where a child refuses consent to a health assessment, and is judged to be of sufficient understanding to do so, there is no requirement to carry out an assessment in accordance with the Regulations or to provide a written report of a health assessment. However, in these cases, the child's health should still be considered as part of the care and support planning and review process. Best practice in local authorities has shown that children are more likely to participate in health assessments when they are encouraged and

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supported to attend, when the assessment is designed to address the issues which are of most concern to them, and when the assessment takes place in a suitable and accessible environment.

Health plans

The health plan is developed from the assessment of the child's health needs and forms the health element of the care and support plan. A wide range of information must be included in the health plan, including:

- health history
- current arrangements for health care
- routine health checks and screening
- preventive measures
- health promotion.

It should specify those actions to be taken and services provided to meet the health needs identified in the assessment, the person or agency responsible for undertaking each action or providing each service, the likely timescales, and the intended outcomes.

When drawing up a health plan, the responsible authorities are required to ensure that the child is provided with health care, including any specifically recommended and necessary immunisations and any necessary medical and dental attention. This will include registering the child with a registered general medical practitioner, and arranging regular check-ups with a dentist. Where a young person is disabled or has other special needs, consideration must be given to continuity of specialist care. Use of NHS provision and school health services should be the same for looked after children as for any other child, but it will be especially necessary to adopt an informed and sensitive approach to assessing and meeting the health needs of these children as they will often have suffered early disadvantage, and may be at risk of their health being compromised because they have not received continuity of care.

Review of health plans

Issues raised by the health review should be considered as part of the care and support planning and review process, and any necessary actions included in revisions to the child's care and support plan.

Care and support planning in relation to education

Local authorities are required to promote educational achievement as an integral part of their duty to safeguard and promote the well-being of the children they look after. This means that they must give particular attention to

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the educational implications of any decision about the child's overall well-being. This duty applies to all children people looked after by the local authority, wherever they are placed. It includes making sure that very young children can access nursery, and it extends to supporting looked after young people aged 16 or 17 and care leavers under the age of 18 to do as well as they possibly can in education.

In discharging this duty, local authorities should ensure that a looked after child of whatever age has the opportunity to achieve educational outcomes comparable to their peers. They should work actively with a child's carers and teachers to encourage the child to have the highest expectations of what they can achieve.

Local authorities should ensure that they have in place a culture of proactive commitment to securing the highest educational outcomes for all the children they are looking after, and robust procedures for monitoring their educational progress. In particular, they should be able to demonstrate, through the training, development and support they give to carers, schools and local authority staff, that they understand the needs of looked after children. They must also ensure that there are clear chains of accountability for the discharging of their duty, and that these are monitored rigorously by a senior manager in the local authority.

This code should be read in conjunction with the Welsh Government's (draft) strategy on the educational attainment of looked after children (published for consultation in February 2015).

The importance of stability in education

When deciding where to place a looked after child, a local authority should do everything possible to minimise disruption to the child's education. This means maximising efforts to arrange a care placement which enables existing educational provision to be maintained, where this is in the child's best interests. It is important to seek, and take into account, the child's views about their education (subject to age and level of understanding) when deciding where best to place the child. Where a child is in Key Stage 4 (years 10 and 11) everything possible should be done to maintain them in their existing school, and a move should only be made in exceptional circumstances. Further guidance on this may be found in Chapter 2 of this code.

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The personal education plan

Local authorities must make sure that every child they look after has an effective and high quality personal education plan (PEP), which will form an integral part of the child's overall care and support plan. The PEP is a record of the child's education and training. It should describe what needs to happen to help them to fulfil their full potential, and reflect (though it does not need to duplicate) any existing education plans such as a statement of special educational needs. The local authority should work in partnership with the child, the school (especially the designated person), carers and other professionals to develop and review the PEP, so that it fully reflects the needs of the child, remains up to date and is implemented.

Except where a child enters care in an emergency, the PEP should be initiated as part of the care and support plan **before** the young person becomes looked after. In an emergency placement, the PEP should be initiated within ten working days. The PEP should contribute to an assessment of the child's educational needs, and a version of it should have been developed and be available for the first statutory review meeting of the care and support plan (28 days after entry to care or accommodation).

Content of the PEP

The PEP should not be seen in isolation from other parts of the care and support plan. It should inter-relate with other strands of the care and support plan, particularly those relating to health, emotional and behavioural development, identity and family and social relationships. Given that there is a greater likelihood that a looked after child will move education placements more than other young people, the PEP is the core document which enables children and their social workers, carers and teachers to reach a shared and agreed understanding of what needs to be done, how, and by whom (including services and named people) to implement the plan. As the school (or other educational setting) has a key role in developing, reviewing and updating the PEP in between reviews of the overall care and support plan, the local authority must ensure that school has the most up-to-date plan.

The following information must be included in the PEP:

- a chronology of the child's educational history, providing a record of the child's educational experience and progress in terms of National Curriculum levels of attainment, and including:
 - details of the schools and colleges attended, and the reasons for leaving

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- an indication of the extent to which the child's education has been disrupted before entering care or accommodation
- information about attendance and disciplinary record at each school attended
- information about academic progress, achievements and any special educational needs including details of any statement

- existing arrangements for their education and training, including details of any special education provision or specialist support which is put in place to promote their educational achievement
- details of the child's leisure interests
- details of the arrangements in place to minimise disruption of their education and training where a change in their educational arrangements is unavoidable.
- a description of the role of the carers in supporting the child's educational achievements, including how they support the child to pursue leisure interests.

Local authorities should make sure that these translate into practical actions within the PEP.

The typical details which a designated person or local authority officer (such as the looked after children education coordinator) should expect to see in a PEP might include (where relevant):

- objectives and targets (owned by the child and the child's carers) which relate to educational aspirations (academic and non-academic) and leisure interests which support the child to enjoy learning and to achieve their learning outcomes

- a clear pathway for securing high quality education provision where a child is not in school or other education setting, showing how the child and the child's carers will be supported so that the child can be re-integrated into an appropriate educational placement without any long delay

- details of the support a child needs and will receive in relation to (for example) one-to-one tuition, transition and integration support where a young person moves schools or other education setting

- a clear line of accountability which demonstrates a shared understanding and responsibility for supporting a child's education, and

DRAFT

which shows who is responsible for supporting the child in relation to implementing each aspect of the PEP.

Review of the PEP

The PEP should be treated as a 'living document' which helps create a shared understanding about how everyone can contribute to helping the child to succeed. It should be reviewed in partnership with the school, the child and the child's carers, as part of the statutory review of the wider care and support plan, and any updated information added as appropriate. Issues raised by the PEP review should be considered as part of the overall review process and incorporated into the amended care and support plan.

The contribution of the corporate parent to education

Different parts of the local authority should understand how they contribute to meeting the statutory duty on the authority to promote the education of looked after children and help them succeed. This includes social workers and carers, those who are responsible for school admissions, school exclusions and behaviour support programmes, special educational needs and school improvement. In particular:

- social workers and carers should understand the arrangements for giving a looked after child priority in the school admission arrangements, as set out in the School Admissions Code and associated Regulations
- officers administering admission arrangements should give maximum cooperation to social workers, in order to comply with the School Admissions Code and associated Regulations
- staff in education settings should understand that permanent exclusion is a last resort and that alternative education provision must be available from the sixth day (or preferably, in view of the impact which school exclusions can have on the child's care placement, from the first day of exclusion)
- social workers, independent reviewing officers and others should take every possible step to minimise disruption to an education placement as a result of entry into or exit from care or a change in care placement.

Authorities should demonstrate through the PEP what additional support they are providing in order to help the looked after child stay in the same school if

DRAFT

they have to move to another address. Particular efforts should be made to ensure that the education of looked after children in school years 10 and 11 (Key Stage 4) is not disrupted as a result of a placement move, given the importance of stability while studying for GCSEs or equivalent qualifications. All other options to maintain the education placement should have been explored and exhausted, and the PEP should evidence this. Before making a decision to disrupt the education placement the officer must first be satisfied that the new education provision will promote educational achievement by meeting the child's assessed needs, and that it is consistent with the PEP.

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Chapter 2: Placements

How looked after children are to be accommodated and maintained

This chapter deals with placements for children who are looked after by a local authority. In the Act, the term 'looked after' refers to a child who is either in the local authority's care, or provided with accommodation by the local authority, for a continuous period of more than 24 hours, in the exercise of any of its social services functions¹ (**section 74**). Children may become looked after either because they are subject to an interim care order or a care order (these are referred to as being 'in care'), or because their parents have requested that their children be accommodated by the local authority on a voluntary basis.

The decision to look after a child is not one that is taken lightly, and local authorities should be working with families at an early stage to prevent children from becoming looked after by a local authority. Preventive and early intervention services, including parenting programmes and family support, can help families find their own solutions. Informal kinship care arrangements can often prevent a child from becoming looked after. Local authorities should make full use of the arrangements set out in Parts 3 and 4 of the Act (on assessing and meeting care and support needs) to support families with care and support needs before they reach a point of crisis.

However, for some children being looked after is the solution that best keeps them safe and promotes their well-being, and the local authority then has a duty to find the most appropriate placement for that child. The most appropriate placement will be that which best meets the child's needs and enables the child to grow and thrive.

Much of this chapter deals with placements of looked after children who are in care. Part 6 of the Act sets out a variety of placement options which local authorities must consider for these children, including placements with a parent or person with parental responsibility (if at all possible), foster placements (either with a connected person or with another local authority

¹ Apart from preventative services (section 15), care and support provided under Part 4 of the Act ('Meeting Needs'), and support for care leavers under sections 109, 114 and 115 of the Act.

DRAFT

carer) and placements in a residential setting (a children's home). Children who are accommodated voluntarily will usually be placed with a local authority foster carer, or sometimes in a children's home, until they can be discharged to the care of a parent or other connected person (who will often be another family member). The decision to discharge a child from being looked after must be subject to assessment and review of the child's needs.

A very small number of looked after children will need to be placed in a secure children's home. These placements are dealt with in Chapter 7 of this code.

The 'Regulations' referred to throughout this chapter are the (draft) Care Planning, Placement and Case Review (Wales) Regulations 2015.

Duty to provide accommodation

The Act specifies various circumstances in which a local authority must provide accommodation for a child.

- (a) Local authorities must provide accommodation for children in care.

Section 79

- (b) Local authorities must provide accommodation for any child within its area who appears to the authority to be in need of accommodation because:

- there is no person with parental responsibility for the child
- the child is lost or has been abandoned
- the person who has been caring for the child has been prevented (for whatever reason, either temporarily or permanently) from providing the child with suitable accommodation or care.

Section 76(1)

- (c) Local authorities must provide accommodation for any 16 or 17 year old in its area whose well-being the authority considers is likely to be seriously prejudiced if it does not provide them with accommodation.

Section 76(3)

A local authority must not provide accommodation for any child falling under (b) or (c) if any person with parental responsibility for that child objects and is able to provide or arrange accommodation for the child. A person with parental responsibility can also remove the child from local authority accommodation at any time. **Section 76 (4) and (5)**

DRAFT

However, a person with parental responsibility may not remove a child or make alternative arrangements for accommodation if one of the following people agree to the child being looked after in local authority accommodation: a person in whose favour a residence order (child arrangement order) has been made, a special guardian, or a person who has care of the child as a result of a court order. Where there is more than one such person, all of them must agree. **Section 74(6) and (7)**

Also, a person with parental responsibility may not remove a child or make alternative arrangements where the child is a young person over the age of 16 and agrees to being provided with accommodation under section 76.

- (d) Local authorities must also make provision to receive and provide accommodation for children who are:
- removed or kept away from home under Part 5 of the Children Act 1989
 - in police protection (section 46(3)(f) of the Children Act 1989)
 - moved to local authority accommodation under section 38(6) of the Police and Criminal Evidence Act 1984
 - remanded to local authority accommodation
 - subject of a youth rehabilitation order imposing a local authority residence requirement, or to a youth rehabilitation order with fostering.
- Section 77**

Local authorities also have a duty to maintain a looked after child in other respects apart from the provision of accommodation. **Section 80**

Securing sufficient accommodation for looked after children

Local authorities have a general duty (**section 75**) to take steps to ensure that, so far as is reasonably practicable, they are able to provide looked after and other accommodated children with accommodation that is within the local authority's area and that meets the children's needs. This accommodation includes both local authority foster carers and children's homes.

In discharging this duty, the local authority must have regard to the benefit of having a number of accommodation providers in their area that is sufficient to discharge its duty, and the benefit of having a range of accommodation in its area capable of meeting different needs. The aim is to improve the quality

DRAFT

and choice of placements, and minimise the likelihood of suitable placements not being available for looked after children in their local area.

Where appropriate, local authorities may wish to consider making arrangements on a regional basis (for example, in respect of children's homes).

Deciding where to place a looked after child

In deciding how best to accommodate and maintain a looked after child, a local authority must always be guided by its principal duty to safeguard and promote the child's well-being (**section 78**). The options for placing a looked after child are set out in **section 81** of the Act.

If possible – i.e. it is consistent with the child's well-being, and it is reasonably practicable – the local authority should make arrangements for a looked after child to live with a parent, a person with parental responsibility, or (where the child is in the care of the local authority and there was a residence order / child arrangement order in force immediately before the care order was made) a person in whose favour a residence / child arrangement order was made. This is in line with the overarching duty, set out in Part 2 of the Act, that a person exercising functions under Part 6 must have regard to the importance of promoting the upbringing of the child by the child's family, in so far as this is consistent with child's well-being.

Often a placement with a parent or person with parental responsibility will not be possible or appropriate. Where it is not, preference should then be given to placement with a relative, friend or other person connected with the child, so that the child continues to be brought up within their family or community environment. Where a child is in care (i.e. subject to a care order or interim care order), this person will need to be registered as a local authority foster carer. The regulations allow a local authority to make a temporary placement while the connected person seeks approval as a foster carer. Where the child has been accommodated on a voluntary basis, and is being discharged into the care of a relative, friend or connected person (with the parent's consent, and because the assessment and review of the child's case has concluded that this is the best option for that child), the child will cease to be looked after.

Where it has not been possible to place a looked after child either with a parent or connected person, the local authority must consider which of the following is most appropriate:

DRAFT

- placement with a local authority foster carer who is not connected to the child (this includes foster carers registered with an Independent Fostering Agency)
- placement with a prospective adopter (where adoption has been identified as in the child's best interests)
- placement in a children's home
- placement in accordance with other arrangements – for example, supporting young people aged 16 or over to live independently in rented accommodation or in supported lodgings / hostels.

The local authority must also ensure that, so far as is reasonably practical, the placement:

- allows the child to live near home
- meets the needs of the child as set out in the care and support plan, and (for young people aged 16 and over) the outcomes set out in the pathway plan
- does not disrupt the child's education or training (in line with the local authority's duty under **section 78(2)** to promote the child's educational achievement)
- enables the child to live together with any siblings who are also being looked after by the local authority
- provides accommodation which is suitable to the child's needs if the child is disabled.

There is a duty to ensure that the placement is made within the local authority's own area (**section 81(9)**), unless it is not reasonably practical to do so or there are over-riding reasons for placing a child out of area (see 'Placements out of the local authority area' below).

In making decisions about placements, the local authority must also have regard to:

- the views, wishes and feelings of the child (in accordance with the child's age and understanding)
- the views, wishes and feelings of parents or other person with parental responsibility (as appropriate)
- the child's religious persuasion, racial origin, and cultural and linguistic background
- the child's sexuality and gender identity
- any disability or sensory impairment, including any emotional, behavioural and mental health needs
- contact arrangements with family

DRAFT

- arrangements to spend time with friends and maintain sporting, social and leisure pursuits.

It will not always be possible for local authorities to make placements that meet all of the criteria set out in the above paragraphs, and difficult choices and decisions will have to be made. The important question a local authority must ask is how far any proposed placement will meet the needs of the individual child and contribute to their well-being outcomes, given their past history and current circumstances. Placement decisions must always be underpinned by an up-to-date assessment of the child's needs and family circumstances, and the Act requires (**section 82**) that a child's case must be reviewed before a placement is made or before a child is moved to new accommodation (unless it is necessary to make alternative arrangements as a matter of urgency to safeguard the child's well-being). The local authority must also consider the level and type of support and services they will need to provide to increase the capacity of the proposed carer to meet the child's needs. This includes support under Parts 3 and 4 of the Act for parents, family members or other 'connected persons' into whose care children are discharged after being accommodated by the local authority.

Local authorities have the power (**section 81(13)**) to determine the terms of any arrangements they make to place a looked after child with a parent, foster carer or prospective adopter, including terms as to any payments (subject to any order made under section 49 of the Children Act 2004).

When resettling a young person upon release from serving a sentence in the secure estate (secure children's home or youth offending institute), the home local authority (i.e. the local authority where the child was ordinarily resident before being sentenced) should consider which placement option best suits the individual's care and support needs. Local authorities will also need to refer to the code of practice relating to Part 11 of the Act when considering the needs of children and young people held in the secure estate.

Placement of a child in care with a parent, person with parental responsibility, or in whose favour a child arrangement order has been made

This section covers placements of a child in care with a parent, person with parental responsibility for a child, or person in whose favour a child arrangement order was made prior to the child coming into care. In what follows, these are all referred to as a 'parent'.

DRAFT

A care order is only made where a court is satisfied that a child is suffering (or is likely to suffer) significant harm because they are not being given (or likely to be given) the care that it is reasonable to expect a parent to give, or because the child is beyond parental control. It is therefore vitally important that the factors that were identified as grounds for the care order (particularly any issues of abuse or neglect) have been addressed and resolved before deciding whether a child can be placed back with a parent. The local authority must also have considered and put in place the appropriate support and services necessary to increase the capacity of the parent to meet the child's needs and ensure that the placement is successful.

In many cases a decision to place a child with a parent will be part of a planned progress towards discharge of the care order. The management of the placement should aim to enhance the parent's role and support relationships within the family with that aim in mind. Even in those cases where the discharge of the care order is not a foreseeable option, the possibility should be constantly reviewed.

The Regulations specify that a placement should not be made with a parent unless the placement safeguards and promotes the child's well-being, and meets their needs as set out in their care and support plan. Local authorities will need to have effective risk assessment and management systems in place, appropriate to the age and circumstances of the child (for example, where an older child chooses to stay or return to their families). A child must not be placed back with a parent if to do so would be incompatible with any order made by the court.

Before making any decision to place the child with a parent, the local authority must:

- assess the parent's suitability to care for the child, all other persons aged 18 and over who are members of the household, and the suitability of the accommodation
- ascertain and give due consideration to the wishes and feelings of the child
- consult with, and consider the views of, the independent reviewing officer and any other person whose views the local authority considers to be relevant
- review the child's case.

Schedule 4 to the Regulations sets out the factors that should be taken into account when deciding to place a child in care with a parent. This includes the extent to which the parent can provide a stable, safe and nurturing family

DRAFT

environment for the child, provide for the child's physical and emotional needs, and promote the child's learning and development. The local authority must consider what resources are available in the local community to support the parent and the child, and what support and services they might need to put in place to overcome any potential difficulties.

It is particularly important that the local authority considers the likely impact of factors such as domestic violence, parental alcohol or substance misuse, and mental health problems, which may have an adverse impact on the parent's ability to safeguard and promote the child's well-being, especially where they formed part of the grounds for the care order. The local authority will need to be satisfied that the parent has had sufficient time and support to address these factors before the child is allowed to return or remain at home, and that these factors are appropriately addressed in the child's care and support plan and regularly reviewed while the child remains in care. Where the parent has had other children who are subject to care or adoption orders, the local authority must be satisfied that all past issues relating to the parent's capacity to bring up children have been addressed. Relationships within the family, including the child's relationship with any new parental partner or step-children, should also be explored, as well as the relationships between the parent and any other adults who have a significant role in the child's life. A formal assessment of suitability should be undertaken for all members of the household who are aged 18 or over, and the assessment should also address the history and current lifestyle of any other young people in the household who are under 18.

Following the assessment of the suitability of placing a child with a parent, the local authority must identify and set out in the child's care and support plan the services and other support which will be provided to the parent and the child to meet any identified needs. The effectiveness of these services and support in addressing the needs of the child, and on the parent's capacity to care, must be considered as part of the review of the child's case.

The decision to place a child with a parent must be approved by a nominated officer of the local authority, who must be satisfied that the arrangements for the placement have been appropriately included in the child's care and support plan, and that all the necessary statutory requirements are met.

In some cases, a local authority may consider that it is in a child's best interests to be placed back with their parents before an assessment can be completed. The regulations allow for this, where it is necessary and consistent with a child's well-being. In this case, the local authority must:

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- arrange to interview the parent, taking into account the factors in **Schedule 4**
- complete the formal assessment and review of the child's case within 10 working days of the child being placed with the parent
- make a formal decision to confirm the placement within 10 working days of the assessment being completed (i.e. 20 working days from the date the child goes to live with the parent)
- review and amend the child's care and support plan where the placement has been confirmed, or terminate the placement if not.

Placement of a child in care with a relative, friend or connected person

There are several obvious advantages to placing a child in care with a relative, friend or other person with a pre-existing connection to the child (such as a childminder, youth worker or teacher). Such placements can provide continuity and help preserve the child's sense of belonging to a wider family network or community. A close attachment may already exist or be likely to develop given the right encouragement and support.

However, not all relatives will be able to safeguard and promote a child's well-being. There may be existing or potential tensions or difficulties within the family, and sometimes these may have contributed to the child becoming looked after in the first place. Also, some relatives may live many hundreds of miles away from the child's home and the child may not wish to move away or it will not be in their best interests to do so. The advantages and disadvantages of placements with other family members will need to be carefully considered, bearing in mind the child's own wishes and feelings.

The process for assessing the suitability of a placement with a relative, friend or connected person is similar to that for assessing a placement with a parent. However, because these are formal placements of children in care, the Act requires that a relative, friend or connected person who cares for a looked after child is approved as a local authority foster carer. They are therefore different to the informal kinship care arrangements which families may put in place, with or without local authority support, before a child becomes formally looked after. They are also different to arrangements that may be made for an accommodated child who is discharged into the care of a family member or other connected person.

Before making a decision to place a child in care with a relative, friend or connected person, the local authority must:

DRAFT

- assess the person's suitability to care for the child, the suitability of other persons aged 18 and over who are members of the household (making arrangement for DBS checks to be undertaken, as necessary), and the suitability of the accommodation
- ascertain and give due consideration to the wishes and feelings of the child
- consult with, and consider the views of, the independent reviewing officer and any other person whose views the local authority considers to be relevant
- review the child's case
- approve the carer as a local authority foster carer, or seek temporary approval.

Schedule 5 to the Regulations sets out the factors that should be taken into account when deciding to place a child in care with a relative, friend or connected person. These include the extent to which the person can provide a stable, safe and nurturing family environment for the child, provide for the child's physical and emotional needs, and promote the child's learning and development. In particular, the assessment must assess the quality of the existing relationship between the child and the proposed carer, as this is the basis for seeking such a placement.

The child's wishes and feelings about the proposed placement must be ascertained (subject to the child's level of understanding), recorded and given due consideration. Wherever possible, an opportunity must be provided for the child to visit the person's home before a decision is finalised. The views of the child's parents and others with parental responsibility must also be obtained and noted before a decision is made.

The local authority must also consider what resources are available in the local community to support the carer and the child, and what support and services they might need to put in place to overcome any potential difficulties.

The home must be visited by the social worker as part of the assessment process. This is to ensure that the home and space available are suitable for that particular child, and to identify any additional resources which may be needed to meet the child's needs (for example, equipment for a baby or very young child, or specialist equipment for a disabled child). The home visit will also provide an opportunity to identify more clearly the composition of the household and the nature and quality of the relationships between the residents, as well as their views about the proposed arrangements. If there are other children living in the household, the social worker will need to ascertain their views on the proposed placement and its possible impact upon

DRAFT

them, and also consider whether anything in their history and current lifestyle is likely to have an impact upon the placement.

Once a placement has been agreed, the relative, friend or connected person must sign a foster care agreement, in which the carer agrees to:

- care for the child as if the child were a member of that person's family
- permit any person authorised by the local authority to visit at any time
- allow the child to be removed by the local authority at any time
- ensure that all confidential information relating to the child, or to the child's family or circumstances, is kept confidential
- support contact arrangements in accordance with any court order or other arrangements made by the local authority.

As an approved foster carer, the relative, friend or connected person will be entitled to the same support and services, including any fees and allowances, as are provided by the local authority to unrelated foster carers.

Temporary approval

In some cases, local authorities may wish to place a child with a relative, friend or connected person before the process of approving the carer as a foster carer is complete, and the Regulations make provision for temporary approval in these circumstances.

The local authority must be satisfied that:

- this is the most suitable means to safeguard and promote the child's well-being
- it is necessary to place the child with the relative, friend or connected person before that person's suitability to be a foster parent has been fully assessed.

Before granting temporary approval, the local authority must assess the suitability of the person to care for the child, inspecting the accommodation and obtaining information about other persons living in the household, and taking into account the matters listed in **Schedule 5**.

Temporary approval may be given for a period not exceeding 16 weeks. This time period should allow sufficient time for the local authority to undertake the foster carer approval process, including any criminal records checks required.

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Exceptionally, the period of temporary approval may be extended but only under the following circumstances:

- the approval process has taken longer than anticipated (in these cases, the temporary approval may be extended for a further 8 weeks)
- the connected person has not been approved and seeks a review of the decision through the mechanism for Independent Review of Determinations (in which case the temporary approval will continue until the outcome of the review is known).

When these time periods expire, and if the connected person has not been approved as a local authority foster carer, an alternative placement should be considered. Before extending the placement, the local authority must consider whether the placement is still the most appropriate available (taking into account the views of the fostering panel, if the case is being reviewed), and inform the independent reviewing officer.

The decision to make a placement of this kind, or to extend it, must be made by a nominated officer, who must be satisfied that the placement is in the child's best interests.

Temporary approval naturally carries risks, including the risk that the relative, friend or connected person will not be approved as a local authority foster carer at the end of the process, resulting in further disruption in the child's life. It is clearly preferable that, wherever possible, the full assessment and approval process is completed before a placement is made. In some circumstances, it may be preferable to use a short-term placement with an alternative foster carer, but including appropriate contact between the child and the prospective 'connected' carer, pending the completion of the full foster carer approval process.

Where a temporary approval is made, the carer must sign a foster care agreement, and the carer will be entitled to the same support and services (including any fees and allowances) as other local authority foster carers.

The visiting requirements, where a looked after child has been placed with a relative, friend or connected person subject to temporary approval, will be more frequent than where the approval process has been completed. These visits will enable the social worker to assess the quality of the child's experience in the placement, and how the relationship with the carer and other members of the household is developing. The social worker will also be able to identify any additional support or services which may be provided, to ensure the placement continues to meet the child's needs. Where there are

DRAFT

concerns that, despite the provision of appropriate support, the placement is no longer the most suitable way of meeting the child's needs, the local authority may need to terminate the placement before the completion of the approval process.

Placement with unrelated local authority foster carers

Where it is not possible to place a looked after child with a parent or with a relative, friend or other connected person, the local authority may decide to place the child with an unrelated local authority foster carer. This may include a foster parent registered with an independent fostering agency with which the local authority has an agreement.

As with other placements, the local authority must be satisfied that:

- the placement safeguards and promotes the child's well-being, and meets their needs as set out in their care and support plan
- the placement with a particular foster carer is the most suitable placement having regard to all the circumstances.

It will not always be possible to find an ideal placement for a child, and practical limitations on choice may make it difficult to ensure that all of the child's assessed needs are met. Early planning can help minimise these risks, and local authorities must allow sufficient time for a child's needs to be carefully assessed, and for a plan to be developed, before a placement is made.

A local authority may only place a looked after child with a particular foster carer if:

- if the foster carer is approved by the local authority or by another fostering provider (who must consent to the placement)
- any other local authority who currently has a child placed with the foster carer consents to the placement
- the terms of the foster carer's approval are consistent with the proposed placement
- the foster carer has entered into a foster care arrangement with the local authority or with another fostering service provider.

The Regulations specify that, where possible, the local authority foster parent with whom the child is to be placed should either be of the same religious persuasion as the child, or gives an undertaking that the child will be brought up in that religious persuasion. The wishes and feelings of the child in relation

DRAFT

to their religious persuasion must also be taken into account, bearing in mind the child's age and level of understanding.

Emergency placements

Hasty or immediate placements should be avoided. However, there will be occasions where a child must be placed in an emergency or on a temporary basis. The regulations allow a local authority, in an emergency, to place a child with an approved foster carer, for a period of no more than 6 working days, even if the terms of their approval are not consistent with the placement. When the 6 working days expire, the local authority must terminate the placement unless the terms of the foster carer's approval have been amended to be consistent with the placement. These powers are intended to be used exceptionally and in unforeseen circumstances, and are not intended to be used in situations where appropriate contingency plans could have been made. Where the local authority has made an emergency placement, and wishes to amend the terms of approval to enable the child to remain with the foster carer, the fostering panel must ensure that it is satisfied that the carer has the capacity to meet the child's needs, taking into account the needs and feelings of any other children in the household.

Placement with an independent fostering agency

A local authority may place a looked after child with a foster carer from an independent fostering agency with which it has entered into a written agreement. Such an arrangement may only be entered into in relation to a particular child where the local authority is satisfied that placement with a particular foster parent is the most suitable placement for that child. When placing a child in such an arrangement, the local authority must enter into a written agreement with the independent fostering agency setting out the items specified in **Schedule 6** to the Regulations.

Placement with a prospective adopter

There will be occasions where a local authority has to find a placement for a looked after child for whom it believes adoption is the best permanent option but whom it is not yet authorised to place for adoption. The local authority may well have a prospective adopter in mind and wish to place the child with them while the authorisation process is completed. The Act specifies that in these circumstances – where the local authority is satisfied that the child ought to be placed for adoption and proposes to place the child with a particular prospective adopter, but the local authority is not authorised to place the child for adoption – then the authority must place the child with that

DRAFT

prospective adopter, unless it is more appropriate to place that child elsewhere (**section 81(10) to (13)**).

The prospective adopter must already have been approved by an adoption agency as suitable to adopt a child. The regulations provide for temporary approval of such a person as a foster carer for that particular child.

The placement may only be made if:

- the local authority is satisfied that this is the most appropriate placement for the child, and it is in their best interests to be placed there
- the local authority is satisfied that the proposed arrangement will safeguard and promote the child's well-being and meet their needs as set out in the care and support plan
- the local authority has assessed the suitability of the prospective adopter to care for that child as a foster parent
- the prospective adopter has been given temporary approval to care for the child as a foster parent.

The period of temporary approval will expire in one of the following ways:

- on the child's placement being terminated by the local authority
- on the termination of approval as a prospective adopter
- on the prospective adopter being approved as a foster carer
- if the prospective adopter gives written notice to the local authority that they no longer wish to be approved on a temporary basis as a foster carer in relation to the child (within 28 days of this notice being received by the local authority)
- on the child being placed for adoption with the prospective adopter in accordance with the Adoption and Children Act 2002.

Placement in a children's home

Placement in a children's home can be the most suitable arrangement for some looked after children. It must always be seen as a positive choice, and be the placement best suited to the child's particular needs and circumstances. These placements are most likely to be suitable for an older child, and the child's wishes and feelings, together with a thorough assessment of the child's needs, are likely to identify those for whom this will be the best choice.

DRAFT

Residential placements can vary greatly in terms of the type of service they provide, so it is important to secure the right placement to meet the needs of the child. Local authorities must ensure they have a range of residential options open to them, to allow placements to be matched to each child's individual's needs. Careful consideration should be given to all possible options, and wherever possible the child should be taken to visit the homes under consideration, as part of the decision-making process. Given the number of children involved, and the need to have a variety of different options, local authorities may need to consider commissioning some types of residential accommodation on a regional basis.

Placement in 'other arrangements'

Placement in other types of arrangement (provided for in **section 81(6)(d)** of the Act) will usually only be appropriate for looked after children who are over the age of 16, and will be made because they are the best way to meet the assessed needs and intended outcomes set out in the young person's care and support plan, and in the pathway plan. Generally these will be outcomes connected to preparing the young person for leaving care and helping the young person make the transition to more independent adult living.

The placement options are likely to include:

- supported lodgings
- supported accommodation
- independent accommodation with floating support from housing support workers.

Because these options are also those used for young people leaving care, consideration of these placement options is covered in Chapter 5 of this code. These placements will not be regulated under the Care Standards Act 2000, and as a result will not be inspected by the Care and Social Services Inspectorate Wales (CSSIW). In these circumstances the local authority must take every step to ensure that the looked after child's needs are matched to the services provided by the placement, in keeping with its principal duty to safeguard and promote the child's well-being. The Regulations require that where a looked after child is placed in 'other arrangements', then the local authority must amend the care and support plan, in conjunction with the young person and the person supporting them in the accommodation, so that it adequately reflects arrangements for the placement.

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Placements out of the local authority's area

It is important for looked after children to remain within their own area wherever possible and appropriate. A placement within the child's home area allows for continuity of health care and education, and makes it easier for the child to maintain contact with birth parents and other significant people in their lives. Maintaining contact with family has been found to contribute to placement stability, and is a significant factor in achieving successful reunification with the child's birth family on a planned basis or when leaving care. However, there are occasions when a placement outside the authority area will be in the child's best interests.

The regulations make it clear that such a placement should only be considered where:

- there is no placement available in the local authority area capable of meeting the child's needs, or
- it is felt that a placement outside that area would be more consistent with the child's well-being than any available placement within the area.

Decisions to place a child out of area should be based on a thorough assessment and analysis of the child's needs. A placement in a neighbouring local authority area will often be preferable to one further away, as the child may be able to attend the same school, remain with their GP, and more easily maintain contact with friends and family. However, it depends entirely on the child's needs and circumstances, and the reasons why an out of area placement is considered the best option for that child. There will sometimes be good reasons why a placement further away from home is judged to be in a child's best interests – for example:

- to safeguard the child or distance them from adverse influences
- to keep a sibling group together, or
- to place the child with relatives or friends with whom the child has a relationship.

The Regulations require local authorities which are considering an out-of-area placement to try to place the child in accordance with the following order of preference (provided this is in keeping with the child's best interests and meets the child's assessed needs):

- within a local authority in Wales whose area borders that of the responsible authority
- within any other local authority in Wales
- within a local authority in England, or
- subject to the requirements of section 124 of the Act, outside England and Wales.

DRAFT

When considering an out-of-area placement, the local authority must ascertain the child's wishes and feelings and these must be given due consideration when the placement decision is made. Where appropriate (subject to any restrictions in any care order, or if it is not in the best interests of the child to do so), the child's parents must also be consulted. The local authority should, if practicable, arrange for the social worker and the child's parents (where appropriate) to accompany the child on a visit before a final decision is made. This will ensure that the wishes and feelings of the child are informed by detailed information about the proposed placement, its location and distance from home.

The child's independent reviewing officer must be consulted before any decision is made, so that they can discuss the proposed arrangement with the child. This discussion should usually take place after the child has visited the proposed placement.

It is particularly important, when making such a placement, that appropriate measures are in place to ensure that the child's care, health and educational needs will continue to be met appropriately and that there is minimum disruption. It is essential to liaise in good time with all relevant services and agencies. All the arrangements, including funding, will need to be settled in good time to ensure that children are not moved before adequate care, health and education can be provided. Where the child will require specialist health services such as child and adolescent mental health services (CAMHS), the local health board for the area where the child will be living must be consulted.

The local authority must ensure that appropriate services are in place to meet the child's needs as detailed in the care and support plan (including those sections which constitute the health plan and the personal education plan) before the placement is made, where possible. Where it is not possible to put these arrangements in place before the placement is made, the local authority must ensure that they are put in place as soon as possible thereafter (see 'Emergency placements out of area' below).

Reference to panel

The Regulations require the local authority to refer the child's case to a panel before an out of area placement is made.

Composition of the panel will depend on the particular circumstances of each case. The Regulations specify that the panel should consist of representatives from such agencies as may assist the local authority in planning the placement of the child and in meeting the child's needs and well-being outcomes during the placement. This must include representatives

DRAFT

from the local authority in which the child is to be placed, including any relevant health and education representatives. Panel members should include senior officers from local authority children's services, education departments and the local health board, who have responsibility for commissioning services and are budget holders. Other members will include professionals and agencies that will need to contribute to delivering the child's care and support plan. In some circumstances it will be helpful if a community paediatrician and/or educational psychologist sits on the panel to provide professional advice. Local health boards must co-operate with the panel arrangements, ensure that they provide appropriate representation and professional advice to the panel, and feed into and agree decisions about funding and the allocation of resources.

The purpose of the panel is to:

- determine that there is no placement in the area capable of meeting the child's needs, or that an out of area placement is more consistent with the child's well-being
- satisfy themselves that the child's health and educational needs will be met in the proposed placement
- agree arrangements for meeting the child's health and educational needs, and who will be responsible for what
- agree funding for the placement.

The panel's deliberations must be informed by the views of the child and the child's parents, all available plans (including those parts of the care and support plan relating to health and education), and all relevant assessments.

If the panel is not able to agree arrangements for an out of area placement, the case should be referred to the Chief Executive of the local authority which is placing the child, and the Chief Executive of the local health board, for resolution.

The Regulations require that any decision to place a child outside the area in which the child normally resides must be recorded in writing, with the reasons, and be endorsed by a nominated officer of the local authority. This will normally be the Head of Service or a deputy acting with their authority.

A decision to place a child out of area cannot be put into effect until approved by the nominated officer. The child's social worker should draw together the information about the child's needs, wishes and feelings, the wishes and feelings of the parent (where appropriate) and details about the proposed

DRAFT

placement in order to set out why this placement is the most appropriate placement to safeguard and promote the child's welfare.

The decision of the panel must also be made available to the lead member for children's services within the placing authority. The report of the decision must set out the details and circumstances of the placement, including the reason why the placement has been made.

The authority in whose area the placement is to be made must also receive formal notification of the placement.

Emergency placements out of area

If the child's well-being requires immediate provision of an out of area placement, the local authority should refer the child's case to a panel as soon as practicable, and in any event not later than 25 working days after the placement has commenced.

Before an emergency placement is made, the nominated officer must be satisfied of the following before approving a decision:

- the child's wishes and feelings have been ascertained and given due consideration
- the placement is the most appropriate placement available consistent with the care and support plan.

The local authority making the placement must notify the local authority where the child is placed, and provide them with the child's care and support plan, within five working days of the placement being made. The child's relatives must also be consulted, and the child's independent reviewing officer notified, within five working days.

Panels must ensure that they give the same level of scrutiny to retrospective cases. The reasons for not referring the child's case to the panel prior to the placement must be recorded in writing and endorsed by a senior officer, and a copy placed on the child's case file. The panel's decision, either to confirm the placement or to place the child elsewhere, should be recorded with reasons and endorsed by the senior officer of the placing authority. This should also be copied to the lead member for children's services in the placing authority.

DRAFT

Cross-border placements

Placements in England

Where a local authority makes arrangements to place a looked after child in a local authority area in England, the regulations require the local authority to ensure that the requirements in respect of out of area placements are complied with, so far as is reasonably practicable.

In the case of a child who is in care, placements in England do not require the specific approval of the courts, but placements outside of England and Wales do.

Placements outside England and Wales

There will be some circumstances in which it will be in a child's best interests to be placed outside of England and Wales. For example, it might be in the interests of the child to be placed with a relative or other connected person who is living outside of England and Wales, or a foster carer might move to a new address or be posted for a period of duty or service elsewhere and there are reasons in favour of continuing the placement (especially if it was intended to be a long-term placement). **Section 124** of the Act contains the powers and duties of local authorities in respect of arranging, or assisting to arrange, looked after and accommodated children to live outside England and Wales.

Local authorities may only arrange (or assist with arranging) for a child in its care to live outside of England and Wales with the approval of the court. They do not need court approval to arrange or assist with such a move for a child who is looked after but not in care, although they do need the approval of every person who has parental responsibility for the child.

The court must not give its approval for a child in care to be placed outside of England and Wales unless it is satisfied that:

- living outside England and Wales would be in the child's best interests
- suitable arrangements have been made, or will be made, for the child's reception and well-being in the country in which the child will live
- the child has consented to living in that country
- every person who has parental responsibility for the child has also consented to the child living in that country.

The court may dispense with the child's consent if the child is to live with a parent, guardian, special guardian or other suitable person, and it is satisfied

DRAFT

that the child does not have sufficient understanding to give or withhold consent. The court can only dispense with the consent of a person with parental responsibility if it is satisfied that:

- the person cannot be found or lacks capacity to give consent, or
- the well-being of the child requires the consent to be dispensed with.

Where the child is moving to another jurisdiction within the British Islands (the United Kingdom of Great Britain and Northern Ireland, the Channel Islands or the Isle of Man), the effect of the court order may be transferred to the relevant public authority in the receiving jurisdiction.²

Where it is clearly in a child's interests and consistent with the care and support plan for the child to be placed elsewhere in the British Islands, and the foster carer is approved under the regulations, appropriate arrangements for supervision should be made with the relevant authorities.

Where a foster carer plans to move permanently or temporarily elsewhere in the British Islands, the local authority will need to weigh up the advantages and disadvantages of continuing the placement, bearing in mind the views of the parents, the plans for the child, the objectives of the placement and implications for contact. The wishes and feelings of the child must be taken fully into account. The consent of the parents (or those with parental responsibility) must be obtained where the child is not in care, and in any case the parents should be involved in the decision-making process.

It will be rare for a child to be placed outside the British Islands. A decision to allow a foster carer to take a child overseas (except for a holiday) should not be made other than where there are exceptional circumstances and adequate and realistic arrangements can be made to safeguard and promote the child's well-being. These will include arrangements to supervise and review the placement, and to continue any contact arrangements. A placement should only be agreed where the stay overseas is for a definite and limited period.

Avoidance of disruption in education

The educational attainment of looked after children continues to be lower than that of the general population. Local authorities must, therefore, have special regard to the education and training needs of a looked after child when

² The Children (Prescribed Orders – Northern Ireland, Guernsey and Isle of Man) Regulations. S.I. 1991/2032 The Children's Hearings (Scotland) Act 2011 (Transfer of Children to Scotland - Effect of Orders made in England and Wales or Northern Ireland) Regulations 2013 (S.S.I. 2013 / 99)

DRAFT

making a placement. The Regulations require local authorities to ensure that appropriate arrangements are made for a child's education or training before any placement is made. These arrangements must meet their needs and be consistent with their personal education plan.

Continuity of education is also important, not only to a child's academic success but also to their emotional and social wellbeing. When placing a child, the local authority must ensure that the placement does not disrupt the child's education or training. The local authority should try to ensure that the child can continue to stay in the same school even if they no longer live in the immediate neighbourhood, provided that this is reasonably practicable and consistent with the child's well-being. The local authority must discuss these issues with the child, and be aware of the child's educational history and experiences as detailed in the personal education plan. Where disruption is inevitable, the local authority must take particular care to ensure that the arrangements for the child's education and training continue to meet the child's needs and are consistent with their personal education plan.

Where a looked after child will change school as a result of a placement, the local authority must consult the designated person at both the current and new schools, and the child's personal education plan must be amended. The plan must set out the arrangements that are being put in place to minimise the disruption to education, especially any arrangements for continuing with courses which lead to externally awarded qualifications.

Specific requirements at Key Stage 4

The regulations impose particular requirements upon local authorities when making placements for looked after children in Key Stage 4 (school years 10 and 11), recognising that moving children in the middle of a GCSE course may seriously damage their opportunity to gain the qualifications they need to enter further or higher education, or to get a job. A child's education should not be disrupted at this stage other than as a consequence of an emergency placement.

The Regulations require a local authority, before making a placement which would disrupt the education of a looked after child in Key Stage 4, to:

- ascertain the child's wishes and feelings and give them due consideration in making the decision about the placement
- ascertain the wishes and feelings of the child's parents (where the young person is accommodated and (where possible and appropriate) where the young person is the subject of a care order)

DRAFT

- ensure that the educational provision made for the child under the new placement promotes the child's educational achievement and is consistent with their personal education plan
- consults the designated teacher at the school where the young person is a registered pupil
- consults the independent reviewing officer, so that they can discuss this with the child
- inform other relevant agencies and practitioners.

The decision to change the child's placement must be approved by a senior officer in the local authority, who must be satisfied that all these requirements have been met.

Planning for a placement

When local authorities are considering and making arrangements for placing a looked after child in any of the above settings, the Regulations require that the local authority must set out in detail in a 'placement plan' how the proposed placement will contribute to meeting the child's needs. The placement plan should form an integral part of the child's overall care and support plan, and in practice will form a distinct section within that plan.

In particular, the placement plan will need to:

- provide clarity about how day to day parenting tasks will be shared between the carer and the local authority (as the corporate parent)
- clarify roles and responsibilities, particularly in relation to decisions made on behalf of the child, and thus reduce the potential for disagreements that may arise
- set out the financial arrangements for the child's upbringing
- provide the carer with essential information about the child, including their health, educational, emotional and behavioural needs and appropriate strategies for meeting them
- ensure the carer understands the child's likes, dislikes and routines
- ensure that any difficulties or behaviours that have caused concern in previous placements are addressed, and that the child and the carer receive appropriate help, support and treatment, if necessary, for the child.

In making these arrangements, the local authority must ascertain and give due consideration to the wishes and feelings of the child, and inform and seek the views of the independent reviewing officer. It must also discuss with the child the information about the placement that has been added to the care and support plan.

DRAFT

Where it is not possible to add this information to the care and support plan in advance of the placement being made, it must be added within five working days of the start of the placement. In any event, essential information for providing safe care to the child must be available to the carer at the start of the placement.

Information the carer needs in order to look after the child

The Regulations set out the information which must be included in the placement plan before a placement is made. This includes information the carer needs to know in order to care for the child, including:

- the child's family and family background
- the child's race, religion and culture
- the language spoken at home
- any disabilities or other special needs
- the child's sexuality and any issues around gender identity
- the circumstances leading to the child becoming looked after
- the child's previous experiences before and during the period in care
- the routines the child has become used to (such as bedtimes and mealtimes), and other information which might be useful in helping the child to settle.

The carer should be given a copy of the care and support plan when it is completed, and must be clear about their role in implementing it. In particular, the carer will need to know:

- what the long term plan is for the child, and its timeframe
- the objectives of the placement and how these fit within the child's care and support plan
- their role in implementing the care and support plan
- a realistic estimate of how long the placement is expected to last.

Carers also need to know:

- how to access further information, advice and support
- the names and contact details of the child's social worker, the family placement worker, the independent reviewing officer, independent visitor and, if applicable, the child's personal adviser
- who to contact outside office hours and how
- what specialist help the child is receiving (for instance, extra help with school work) and how this can be maintained

DRAFT

- other key names, addresses and contact details, including the school, the designated teacher for looked after pupils, the child's GP, dentist and any other professionals involved with the child's care.

Clear arrangements also need to be made concerning remuneration. Carers need to know from the outset how much financial support they will receive and the arrangements for payment. This must include clear information about how exceptional items such as school trips will be paid for. In addition to maintenance payments, the authority should consider with the foster carer whether there are any particular needs arising from the placement, such as bedding, bedroom furniture, equipment, or clothes, particularly where a group of siblings is placed in a household not equipped to cater for large numbers.

Children with special needs frequently involve extra expense and require special equipment, and it should be made clear to carers of children with special needs how this additional expense is going to be covered and who will provide and maintain any equipment.

Local authorities should be realistic and sensitive in responding fully and promptly to a need for extra expenditure, always bearing in mind that the responsibility for providing for the child lies with the authority and the parents, not the foster carer. The local authority should ensure that carers know how to raise any concerns about necessary expenditure with the authority.

Day-to-day arrangements

The local authority is required to set out a range of specific information in the child's care and support plan, concerning the child's health and education, contact arrangements, visits by the local authority and any arrangements for visits by an independent visitor.

The child's carer needs to know their role in safeguarding and promoting the child's well-being.

In particular, they will need to know about the child's health and their role in implementing the child's health plan. This will include important information about allergies, current medication and the treatment of any health conditions, and practical details such as forthcoming dates of appointments with specialists.

They will also need to know about the child's educational needs, and understand their role in implementing the child's personal education plan. This includes information about additional educational support provided through statements of special educational needs, any existing arrangements

DRAFT

for specialist services such as psychotherapeutic support or extra tuition. The carer will need to be aware of their responsibilities in ensuring that these are maintained and their role in helping the child to follow any agreed programmes.

The child's carers should be aware of the child's religion and culture and the manner in which these are reflected in their daily life, including any help the child will need to maintain these links. The care and support plan should set out the agreed arrangements for preserving and strengthening the child's links with the religious and cultural practices of their birth family, particularly where the plan is for the child to return to live with parents once the placement has ended.

Arrangements for contact between children, birth parents, siblings who are looked after and other relatives and friends must be clarified and discussed with carers. The child's carers need to know the provisions of contact orders made under section 8 of the Children Act 1989 and of any Child Arrangement Orders, and how any changes to these arrangements should be notified. They also need to be aware of any person with whom contact is discouraged and the reasons for this, and, if the child is subject to a care order, be given a copy of any orders made under section 34 of the Children Act 1989. If the child has been authorised to be placed for adoption, section 26 of the Adoption and Children Act 2002 applies.

While there is an expectation that the child's carers will facilitate reasonable contact with parents and other relatives, social workers need to be aware of the difficulties that can arise when birth parents and other relatives have extensive contact with children in the carer's home. Contact arrangements should be sensitive to the needs of carers and their families as well as those of parents.

Placements back with parents

Additional information must be provided where arrangements are made to place the child with their parents. In these cases, the child's placement plan must include:

- details of the support and services which will be provided to the parent during the placement
- the obligation of the parent to notify the local authority of any relevant change in circumstances
- the obligation of the parent to keep the information provided about the child, the family or other persons confidential

DRAFT

- circumstances for obtaining approval for the child to live in a household which is not the parent's
- arrangements for requesting a change to the agreement
- the circumstances in which the placement will be terminated.

Shared responsibilities and consents

In the case of an accommodated child placed with a foster carer or in a registered children's home, the placement plan must identify how responsibilities will be shared between parents and the local authority. The placement plan must set out the respective responsibilities of the local authority and the child's parents, and any arrangements for delegation to the local authority from the child's parents. It is important to discuss with parents those areas of responsibility they are willing to delegate to the authority and those that they wish to retain in the context of the needs of the child.

Even where a child is subject to a care order, parents retain parental responsibility for the child, although the local authority may determine how it is exercised. It will be important to include parents in these discussions so far as is possible and appropriate, in order to enable them to continue to play a part in their child's life. Where a child is in a placement which is intended to be permanent, it is likely that the placement plan will reflect greater levels of delegated responsibility to the carers.

Likely areas for confusion should be clarified in advance and decisions recorded. These include, for example, who should attend school parent evenings, and the circumstances in which the carer can give approval for the child to take part in school trips or overnight stays without needing to refer back to the local authority. It might be helpful to identify from the start of the placement any people the child might be allowed to stay with without the need for further permission.

In the case of an accommodated child, the placement plan should set out the expected duration of the placement, and the steps which will be taken to bring the placement to an end, including arrangements for the child to return to live with a parent, other family member or connected person.

Where a young person is over 16 and agrees to be provided with accommodation by the local authority, this must be recorded in the young person's care and support plan and / or pathway plan.

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Foster carers' delegated authority

It is very important to agree before a placement begins who can make which decisions about a looked after child. This needs to be clearly communicated to all parties involved in the placement, including the child, the child's parents and foster carers, and the professionals involved with the child. The issue of delegated authority also needs to be kept under regular review.

Foster carers should be given the maximum appropriate flexibility to take decisions relating to children in their care, within the framework of the placement plan and the law governing parental responsibility. Except where there are particular identified factors which dictate to the contrary, foster carers should be given delegated authority to make day to day decisions on matters such as health, education and leisure.

If a child becomes looked after with the voluntary agreement of the parents, the local authority does not have parental responsibility and so agreement must be reached about what decision-making the parents will delegate to the local authority. The local authority should work with the parent(s) as far as possible to help them understand the benefits to their child of appropriate delegation to the local authority and foster carers.

If a child is subject to a care order, interim care order or emergency protection order, the parent or parents share parental responsibility with the local authority, and the local authority can limit the extent to which the parents can exercise their parental responsibility if this is necessary to safeguard or promote the child's well-being. As far as possible, however, parents whose child is subject to a care, interim or emergency protection order should be consulted about their child's care and their views taken into account. Whatever the legal status of a child's placement, parents should be helped to understand the role of foster carers and the relevance of appropriate delegated authority, so that they can support the foster carers.

It is important that foster carers know what authority they have to make decisions about everyday matters involving the child. Arrangements for delegating authority from the parents to the local authority, and/or from the local authority to the foster carers, must be discussed and agreed as part of the care planning process (particularly at placement planning meetings), and agreements should be recorded in the placement plan.

The Regulations require that the placement plan sets out any circumstances in which the foster carer must obtain the prior approval of the local authority or a parent before making decisions in relation to the child or the child's care and

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support. More generally, the placement plan should provide clarity about what authority the parents have delegated to the local authority, and how the day-to-day parenting tasks will be shared between the foster carer and the local authority. Those with the authority to take a particular decision, or give a particular consent, must be clearly named in the placement plan, and any associated actions (for example, a requirement for the foster carer to notify the local authority that a particular decision has been made) should be clearly set out.

Arrangements for delegated authority should be given particular scrutiny when children are confirmed in long term or permanent placements, and attention given to how responsibilities are shared in order to reinforce and support the long term bonds and attachments which foster carers will be expected to build with the child. In all placements, particularly those that are long term or permanent, what is appropriate to delegate to the foster carer, and what the parents are prepared to delegate to the local authority, may change. Agreements about delegation of authority should therefore be regularly reviewed through care and support planning and review meetings, taking into account the views of birth parents, the child, and the foster carer, and the legal status of the placement. Any changes should be recorded in the placement plan.

Where a child is placed with foster carers approved by an independent fostering agency or another local authority, the local authority which makes the placement should consult the fostering service provider about what authority should be delegated to the foster carer. Where authority for a particular decision or consent lies with the local authority, the local authority should ensure that decisions are made in the same timely way, whether or not the foster carer has been approved by themselves. The local authority should also provide promptly any information that may be required to enable a foster carer to take a decision about a child.

Looked after children should as far as possible be granted the same permissions to take part in normal age-appropriate peer activities (such as sleepovers) as would reasonably be granted by the parents of their peers. It should be normal practice for the local authority, in agreement with those with parental responsibility, to delegate to the child's foster carer day-to-day decision making about allowing a looked after child to stay overnight with friends, and to state this in the placement plan. Foster carers should be expected to make similar judgements as parents when it comes to deciding if there are risks to staying in a particular household or visiting relatives. Decisions should be based on a reasonable assessment of risks. In all cases foster carers should be made urgently aware of any individuals, addresses or

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areas which may place a child at risk, and this should also be included in the placement plan.

There may sometimes be exceptional reasons for requiring foster carers to seek the permission from the local authority or a person with parental responsibility for the child, or to place specific restrictions on permitting a child to stay overnight with friends. The restriction should be clearly stated in the placement plan, together with the reasons. Wherever practicable the child should be consulted over the issue, and their views and feelings taken into account in reaching the decision. The restriction and the reasons for it should be fully explained to the child concerned, unless this would not be consistent with the child's wellbeing. Any restrictions should be reviewed regularly to ensure that they remain relevant.

In making decisions about whether or not to permit a looked after child to stay overnight with a friend, to have a holiday with their friends or with relatives of their foster carers, or to go on a school trip, foster carers and the local authority should consider the following factors:

- whether there are any relevant restrictions contained in the child's placement plan
- whether there are any court orders which restrict the child from making a particular overnight stay, visit or holiday
- whether there are any factors in the child's past experiences or behaviour which would preclude the overnight stay, visit or holiday
- whether there are any grounds for concern that the child may be at significant risk in the household concerned or from the activities proposed
- the age and level of understanding of the child
- what is known about the reasons for the overnight stay, visit or holiday
- the length of the stay.

If in doubt about the appropriate decision, or if there is reason to consider that a child may be at specific risk in staying in a particular household, the foster carers should consult the local authority for advice. The child and their carers should always be told of the criteria that will be used to make decisions about overnight stays, visits and holidays.

Foster carers should always have contact details for the household in which the child will be staying. They should also make contact with the household beforehand, as would any good parent, to assist in assessing the request, to confirm arrangements and to ensure that the householder has the foster carer's contact details.

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There is no statutory duty for Disclosure and Barring Scheme (DBS) checks to be undertaken in relation to adults in a private household where a child may stay overnight or visit, or who the child may accompany on a holiday or on a school trip. DBS checks should not normally be sought as a precondition.

Where a looked after child visits or spends a holiday with their foster carer's friends or relative, there is no requirement for the individual to be approved as a local authority foster carer, as the child will remain formally placed with their usual foster carers.

Notification of placements

When a decision has been made about the most appropriate placement for a child, that decision must be notified in writing to a range of specified people and agencies. This allows those involved in the decision-making process to make any necessary arrangements, and also gives them an opportunity to make their views known, so that any concerns or potential difficulties can be considered and resolved at the earliest opportunity.

Written notification should be provided to the specified bodies before the placement begins, or where this is not possible as soon as reasonably practicable thereafter. Notification must, in any event, be made no later than 10 working days from the date of the placement.

Who must be notified

The people who must be notified, in writing, of a placement are:

- the child, having regard to the child's age and understanding
- the independent reviewing officer
and, unless to do so would put the child at risk of harm
- the child's parents
- any person who is allowed contact with the child under a care or residence order
- any person who was caring for the child immediately before the arrangements were made.

The agencies which must be notified in writing are:

- the local health board for the area in which the child is living, and (if different) the area where the child is to be placed (or, where the child is placed in England, the NHS Commissioning Board and any relevant clinical commissioning group)

DRAFT

- the child's registered GP, and (where applicable) the GP with whom the child is to be registered during the placement
- any educational institution attended by the child (including early years provision, school, college or pupil referral unit) or any person providing education for the child.

In addition, the local authority should ensure that the social worker explains personally to the child, the child's parents and the child's carers the decisions that have been taken about the placement, and what has been included in the placement plan. This should be done in addition to any explanations given during the assessment and planning process. The local authority must ensure that decisions are communicated to the child and the parents or carers in an appropriate way, taking into account factors such as age, understanding, any disability or language preference.

The local authority should also consider notifying any other person with a sufficient interest in the child – for example, a person involved in the child's life but not specified in the Regulations. In some circumstances the authority may decide not to provide information to all or any of the persons specified in the Regulations, if as a result of doing so the child would suffer or be likely to suffer harm.

Notification must also be made to any person who has a contact order with the child.

When notifying the local education authority and the child's GP, the local authority must provide them with copies of any relevant report or assessment available at the time of the placement.

When sharing information with third parties, local authorities must take account of the principles set out in the Wales Accord on the Sharing of Personal Information (WASPI), and ensure that all notifications contain only the amount of information it is necessary to divulge.

Any amendments made to placement plan at the first or subsequent reviews should be recorded in writing and notified to those consulted or involved in the reviews as required by the review regulations.

Content of the notification

The written notification should contain a summary of the proposed arrangements and the objectives, including relevant information such as:

- details of the placement and its likely duration

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- arrangements for contact
- who is responsible for implementing the placement plan
- the role of the child's parent on a day to day basis
- arrangements for enabling the child to return to live with their parent
- the agreed arrangements for terminating the placement
- contingency arrangements if the placement is unsuccessful.

In exceptional circumstances, where a child is in care or subject to an emergency protection order, and the local authority has reasonable cause to believe that informing a person would put the child at risk of harm, the carer's name and address may be omitted from the notice. Where it is necessary to do this, the circumstances and reasons should be recorded on the case record and notified to the parent in writing.

The letter of notification should give information, in appropriate formats, about the local authority's complaints procedures, so that the child, parent or other notified person know how to make representations about the placement or the decisions that have been made.

Local authorities should maintain a list of all the notifications of looked after children placed in their area, whether by themselves or by another local authority.

Termination of placements

Before terminating a placement for a looked after child, the local authority must carry out a review of the child's case and ensure that the views of all the people concerned have been heard, including the child (sufficient to the child's age and understanding), the child's parents (where appropriate) and carers, and other people who were notified when the placement was made.

The review will provide the opportunity to consider what, if any, support and services could be provided which would avoid the need to terminate the placement. If that is not possible, the review will provide a forum for considering what would be the most appropriate new placement for the child, taking account of any concerns which have led to the decision to terminate the current placement.

The local authority must make other arrangements for the child's accommodation before terminating the current placement.

Where the local authority considers that there is an immediate risk of harm to the child, or where it is necessary to protect others from serious injury, the child must be removed from the placement, and the requirement to hold a

DRAFT

review before moving the child does not apply. Alternative accommodation must be found as soon as possible and the child's independent reviewing officer informed as soon as is practicable.

The local authority must give written notification, so far as is reasonably practicable, of the intention to terminate a placement, to all the people who were originally notified of the placement, to the person with whom the child is placed, and to the local authority in whose area the child is placed (if placed out of area). If it is not reasonably practicable to notify these people before the placement is terminated, written notification must be given within 10 days of the termination.

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Chapter 3: Contact and visits

Contact with, and visits to, looked after children and children who have ceased to be looked after

Visits to looked after children

The Act requires a local authority to ensure that each child it is looking after is visited by a representative of the local authority, and to arrange for appropriate advice and support to be available to that child (**section 97**). The visits should usually be undertaken by the child's allocated social worker, other than in exceptional circumstances.

The local authority must ensure that the representative visits the child wherever that child is living. This will include those children who are in youth detention accommodation or secure children's home (see Chapter 7).

Visits form part of a broader framework for supervising the child's placement, for ensuring that the child's well-being continues to be safeguarded and promoted, and that the outcomes set out in the child's care and support plan (and, for young people over age 16, pathway plan) are met. They provide one aspect of supervision of the placement, which will also include advice and assistance to the foster carer or children's home staff and reviews of the child's case.

Visits are not just about checking that a child is settling well into a placement or that a placement is progressing satisfactorily. They should be seen as an opportunity for proactive engagement with the child about their hopes and aspirations, and how the placement will contribute to the achievement of their personal goals.

Outcomes

Successful visits will achieve the following outcomes:

- the social worker and the child develop a positive relationship, so that the child feels comfortable sharing their experiences (both positive and negative) about the placement
- the child is offered reassurance, especially if they are feeling isolated from their family and friends, and any difficulties are identified and addressed

DRAFT

- the child is able to talk openly about their hopes and aspirations for the placement, and can articulate any worries or concerns
- the child receives advice, information and support which helps them negotiate any difficulties they are having with their placement, or which helps them settle into their new home or school environment
- the carer receives advice on responding appropriately to the child's needs (including any behaviour management issues)
- any areas where additional support or services are needed are identified
- the social worker is satisfied that the child is safe and receiving the care, support and encouragement they need
- the social worker is able to monitor and evaluate how far the actions and outcomes identified in the care and support plan (and, where appropriate, the pathway plan) are being met, and is able to contribute to reviews of these plans
- the social worker can monitor contact arrangements and how the child is responding to them, and identify any additional support the carers need to support positive contact arrangements.

The functions of a local authority representative are set out in the Regulations, and mirror these outcomes.

Frequency of visits

The frequency and length of visits must always be determined by the circumstances of the case and the needs of the child. The Regulations set out the minimum requirements for visiting different types of placement (see below), but more frequent or additional visits may be required to ensure that the outcomes set out above are achieved.

A local authority must arrange a visit whenever reasonably requested by a child, the child's carer or the person responsible for the child's living arrangements (regardless of the status of the placement).

Additional visits may be needed at times of particular change or challenge – for example, when the child's needs have changed, or the placement is under particular stress. More frequent visits may also be necessary when a child is first taken into care, or when they have a new social worker, to develop a strong relationship and ensure that the change is managed proactively and in the child's best interests.

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The following are the minimum statutory requirements set out in the Regulations:

- **General requirements**

The child must be visited within one week of the start of any placement. Thereafter, the child must be visited at intervals of not more than six weeks for the first year of any placement commencing. Visits during subsequent years must also take place at intervals of not more than six weeks, unless the placement has been formally agreed as a permanent placement which is intended to last until the child is 18. In permanent placements, the intervals between visits in the second and subsequent years of placement must not be longer than three months.

- **A child placed back with a parent**

Where a care order has been made in relation to a child under section 31 of the Children Act 1989 and the child is placed back home with a parent, the child must be visited within one week of the making of the care order and then at intervals of no more than six weeks. A child placed back home with a parent before the assessment is completed must be visited at least weekly until the time of the first review, and subsequently at intervals of not more than six weeks or until the completion of the assessment.

- **Placements with a temporarily approved foster carer or a child living with a parent under an interim care order**

Where a child has been placed with a temporarily approved foster carer (usually a relative, friend or other connected person), or where an interim care order has been made in respect of that child (under section 38 of the Children Act 1989) and the child is still living with the parent, the child must be visited at least weekly until the time of the first review. Subsequently, visits must take place at intervals of not more than four weeks until either the carer is approved as a local authority foster carer or the final hearing has been completed in the care proceedings. These frequencies reflect the potentially greater vulnerability of a child who has been placed with a carer before the assessment of that person's suitability to care for the child has been completed, or where the child continues to live with a parent in circumstances where the local authority has concerns about a possible continuing risk of the child suffering significant harm. These visits will allow the social worker to assess how the relationship between the child and parent or carer is developing and identify at an early stage where there may be concerns about a child's well-being.

DRAFT

- **A child in care where accommodation is not provided by the local authority**

Where the child is in the care of the local authority, but another person or agency is responsible for the arrangements under which the child is living for the time being (such as a child who has been sentenced and who is accommodated in a secure children's home or a juvenile prison wing), the child must be visited within one week of the start of the living arrangements and within one week of any change to those living arrangements.

Subsequently, visits must take place every six weeks for the first year and at intervals of not more than three months in any subsequent year.

- **Additional visiting requirements**

In addition, a visit must also be made within one week of receiving a notification under section 30A of the Care Standards Act 2000 when the children's home in which the child is currently placed is referred to in that notification.

The social worker must visit the placement if there is any proposal to remove the child from the placement because there are concerns about the child's well-being.

Conducting visits

The representative must see and speak to the child alone, except:

- where the child refuses, and is of sufficient age and understanding to refuse
- where the social worker considers it inappropriate to do so, having regard to the child's age and understanding
- where the social worker is unable to do so, for example because the child is out.

Where a child has particular communication difficulties or needs specialist support to express their views and feelings (including whether they wish to request or refuse a visit), this must be identified in their care and support plan.

Visits during the first weeks of placement are especially important in checking that the arrangements for the child's education and contact with family and friends are working smoothly, and in giving any help needed during the settling-in period.

Safeguarding is an important aspect of visiting. The social worker should observe the standard of care, and should from time to time see the child's

DRAFT

bedroom. Some visits should be unannounced, in order to provide a balanced perspective of the quality of life where the child is living. Some visits should take place when all the members of the household are at home, so the social worker can experience the dynamics within the family and the relationship the child has with the other members of the household. Sometimes it will be more appropriate for the social worker to arrange a joint activity with the child outside the home, if it is felt that this would allow the child to speak more freely about any concerns.

Reports of the visits

The content and outcome of each visit to a looked after child must be carefully recorded within the individual case record in a way which enables a continuing assessment of the progress of the child in the placement to be made, even where there is a change of social worker. The record should set out the main issues that were raised during the visit, any issues of concern and how these will be addressed, and an overall conclusion. Information from the visit should be shared appropriately with the child's parents and carers, and others who may need to know. The social worker must discuss with the child, subject to their age and understanding, what information should be shared with whom and why.

Where there are concerns

Where, as the result of a visit, the social worker has concerns about whether the placement is adequately promoting the child's well-being, the independent reviewing officer should be informed. Where the social worker concludes that the placement is not promoting the child's welfare, the local authority must review the child's case. This will include reviewing the child's care and support plan, identifying actions which must be taken to ensure that the placement is able to meet the child's needs appropriately, or if not, considering alternatives.

Advice, support and assistance for the child

The local authority also has a duty to arrange for appropriate advice and other support to be available to the child (**section 97(3)(b)**), and to ensure that the child knows how to ask for this. The local authority representative will also be able to assess during their visits whether the child needs or wants any additional advice, support or assistance. When arranging to provide advice and support, the local authority must ensure that it is appropriate having regard to the child's age and understanding. The authority must also give due consideration to the child's religious

DRAFT

persuasion, racial origin, cultural and linguistic background, sexuality and any disability.

Visits to children who are not looked after but accommodated by health or education authorities or in care homes or independent hospitals

Local authorities also have a duty to visit children who are not looked after by any local authority in Wales, England or Scotland (or by a Health and Social Care Board in Northern Ireland) and who are accommodated by health or education authorities, or in care homes or independent hospitals, in Wales. This will follow a notification by the accommodating authority or the person carrying on the care home or hospital, in line with section 120 or 121 of the Act. The frequency and conduct of visits will be similar to those set out above. Further information regarding these children can be found in Chapter 8 of this code.

Independent visitors

A local authority looking after a child has a duty to appoint an independent person to be the child's visitor where it appears to them to be in the child's best interests to do so. **Section 98(1)**

The Regulations specify that a local authority must consider whether it would be appropriate to appoint an independent visitor for a child they are looking after where:

- the child has not lived with a parent (or a person with parental responsibility for the child) during the preceding 12 months
- contact between the child and a parent (or a person with parental responsibility) has not occurred or has been infrequent.

Whether a child needs an independent visitor should be considered as part of the development of the child's care and support plan, or when a child's case is reviewed.

The Regulations specify the following factors which the authority should take into account in reaching a decision about appointing an independent visitor:

- whether the appointment of an independent visitor would make a positive contribution to the child's well-being
- where the child is placed at a distance from home, or is placed out of the local authority area, whether the placement makes it difficult to

DRAFT

maintain sufficient contact arrangements (for example, with family and friends)

- whether the child is unable to go out independently or whether they experience difficulties in communicating or building positive relationships
- whether the child is likely to engage in behaviour which may put the child at risk of forming inappropriate relationships
- where the child is placed in a children's home, whether the child's well-being would be promoted by the opportunity to establish a relationship with an independent visitor.

The role of an independent visitor is to visit, befriend and advise a child.

Section 98(2)

When a local authority determines that it is appropriate to appoint an independent visitor for a child, it must explain the role of an independent visitor to the child, in a way that is appropriate to the child's age and understanding. It should also ascertain the child's wishes and feelings. The local authority must not appoint an independent visitor if the child objects and the authority is satisfied that the child has sufficient understanding to make an informed decision.

The Regulations place certain restrictions on who can be appointed as an independent visitor, to ensure that a visitor is genuinely independent of the local authority. The following must not be appointed:

- an elected or co-opted member of the local authority or any of its committees
- an officer of the local authority who is employed in relation to specified functions, including its education or social services functions
- the spouse or civil partner or other person (whether of the same or a different sex) living in the same household as the person who is a member or an officer of the local authority.

Local authorities should consider at each review whether the child continues to need an independent visitor, and whether it is appropriate to continue the appointment of their particular visitor. The local authority will need to consider the most appropriate way of ascertaining the child's wishes about the continuation of the relationship. The authority must terminate the relationship if the child objects to it and the authority is satisfied that the child has sufficient understanding to make an informed decision. Where this happens they will need to discuss with the child whether it would be appropriate to appoint another independent visitor.

DRAFT

An appointment as an independent visitor for a particular child comes to an end if the child ceases to be looked after by the local authority. It can also be terminated in writing by the visitor or by the local authority. Where an independent visitor is acting in respect of a number of children, termination of appointment in respect of one child does not automatically terminate appointment in respect of the others. Each case should be considered separately.

The independent visitor is entitled to recover from the local authority any reasonable expenses. Such expenses should cover travel and out of pocket payments, but does not include a regular payment or salary for undertaking the role.

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Chapter 4: Review of cases

The role and functions of the Independent Reviewing Officer

This chapter deals with procedures for reviewing a child's care and support plan, and in particular the role and functions of an Independent Reviewing Officer (IRO). It covers:

- the appointment of independent reviewing officers (**section 99**)
- functions of the independent reviewing officer (**section 100**)
- the manner in which reviews are to be carried out (**section 102**).

Section 100 of the Act sets out the functions of IROs in care and support planning and in securing better outcomes for looked after children. IROs have responsibility for monitoring the performance by the local authority of their functions in relation to a child's care and support plan, as well as specific duties in relation to reviews.

There functions of the IRO are to:

- monitor the local authority's performance in relation to the child's case
- participate in the child's review in line with the Regulations
- ensure that the child's wishes and feelings are taken into consideration
- perform any other function prescribed in the Regulations.

The Act introduces changes which will enable the IRO to have a more effective and independent oversight of the child's case, so that the child's care and support plan represents an effective response to the child's assessed needs and respects the child's integrity and dignity.

Section 99 requires the local authority to appoint an IRO. The Regulations specify the circumstances in which the local authority must consult the IRO.

The IRO's functions include a responsibility to consult the looked after child about their care and support plan at each review, and at any time that there is a significant change to the care and support plan. Significant changes to care and support plans may only be made or proposed at the looked after child's review, and the IRO has the authority to determine when a review should be convened in the light of a change of circumstances. Reviews should in any case take place on a regular basis as set out in the Regulations. There are also actions that the IRO must take if the local authority is failing to comply

DRAFT

with the Regulations or is in breach of its duties to the child in any material way, which include making a referral to the Children and Family Court Advisory and Support Service Wales (CAFCASS Cymru).

The following paragraphs set out the IRO's responsibilities in relation to monitoring the case on an ongoing basis. IROs are well placed to assess the quality and effectiveness of local authority planning and support for looked after children, and have a crucial role to play in ensuring that the local authority fulfils its responsibilities as a 'corporate parent' for all looked after young people.

The primary task of the IRO is to ensure that the care and support plan for the child fully reflects their needs, and that the actions and outcomes set out in the plan are consistent with the local authority's legal responsibilities towards the child. As corporate parents, each local authority must act for the children they look after as any responsible and conscientious parent would act.

The responsibilities of the IRO include:

- ensuring that care and support plans for looked after children are based on a detailed and informed assessment, are up-to-date and effective, and provide a real and genuine response to each child's needs
- identifying any gaps in the assessment process or provision of service
- offering a safeguard to prevent any 'drift' in care and support planning and the delivery of services
- monitoring the activity of the local authority acting as a good corporate parent
- ensuring that all reasonable steps have been taken to ascertain, and give proper consideration and weight to, the child's current views, wishes and feelings
- ensuring that the child fully understands the implications of any changes to the care and support plan
- making sure that the child is aware of their entitlement to an advocate and what an advocate does
- ensuring (for an accommodated child) that a review takes place prior to discharge from care.

The IRO also has a duty to monitor the performance of the local authority's function as a corporate parent and to identify any areas of poor practice. This should include identifying patterns of concern emerging not just from and individual child, but also more generally in the collective experience of their looked after children. Where these more general concerns around service

DRAFT

delivery are identified, the IRO should immediately alert senior managers to these concerns.

The IRO is under a duty to ensure that looked after children have been informed of their right to apply, with leave, for a section 8 order (under the Children Act 1989); where the child is in care, to apply for the discharge of the care order; and also the right to make a complaint. The IRO must also ensure that looked after children are aware of the availability of advocacy services, which they have the right to access in relation to any aspect of their case. If the child wishes to take legal proceedings under the Act (or the Children Act 1989), the IRO must establish whether there is an appropriate adult able and willing to assist the child to obtain legal advice or bring proceedings on the child's behalf, or, if there is no such person, assist the child to obtain such advice.

Taking into account the age and understanding of the child, the IRO should consider carefully how best to explain the right to:

- make a complaint and how to do this
- an advocate, including the role of the advocate
- apply for an order or seek discharge of an order.

These are all complex issues to explain to a child, and the IRO and the IRO's managers must be satisfied that the child is aware of and understands what their rights are.

IROs are required to have specific qualifications and experience in order to fulfil their statutory functions. The IRO should:

- be registered as a social worker by the Care Council for Wales, Part 16 of the register maintained by the Health and Care Professions Council under Article 5 of the Health and Social Work Professions Order 2001³, or in a corresponding register maintained under the law of Scotland or Northern Ireland
- be able to provide evidence of sufficient relevant social work experience in children's social care to be able to undertake the IRO functions
- have the ability to communicate with children and young people, the confidence and ability to challenge senior managers, and a thorough understanding of the legal framework relating to looked after children and care leavers, including knowledge of relevant regulations

³ S.I. 2002 / 254.

DRAFT

- have a thorough working understanding of the legal process and the issues involved when a local authority makes an application for a care order
- have experience of providing social work supervision and support, and knowledge of the evidence about what makes for good quality practice in working with children and their families.

There are specific categories of persons that the local authority may not appoint to carry out the IRO function. These are:

- a person involved in preparing the child's care and support plan or the management of the child's case
- the child's social worker or personal adviser
- the representative of the local authority appointed to visit the child
- a person with management responsibilities for any of the above
- a person with control over the resources allocated to the case.

DRAFT

Chapter 5: Leaving care

Arrangements for leaving care, personal advisers, pathway plans and assessments, suitable accommodation and support for higher education

This chapter deals with support for young people who have ceased to be looked after. These include care leavers under the age of 18 (referred to in the Act as a 'category 2 young person'), care leavers aged 18 and over (a 'category 3 young person'), and care leavers who reconnect to care at 21 for education and training (a 'category 4 young person').

It also deals with young people in young people who left care under a Special Guardianship Order (a 'category 5 young person'), and other former looked after or accommodated children who may be entitled to advice and support (a 'category 6 young person').

The various categories of young person, as defined in section 104 of the Act, are explained in more detail below.

Support for young people aged 16-17 who are still being looked after (a 'category 1 young person') is included in chapter 1. This describes a comprehensive framework of assessment, care and support planning, intervention and case review by local authorities to prepare 16 and 17 year olds for the time when they will no longer be looked after.

This Chapter should be read in conjunction with the code of practice relating to Part 11 of the Act, which covers children and young people in the secure estate. Some provisions for looked after children and care leavers are disapplied when a young person is convicted and sentenced to youth detention or a secure children's home, but can be reinstated once the individual is released, depending on their age.

Definitions

Section 104 of the Act defines six categories of young people, in respect of leaving care.

Definition	Main Statutory Obligations
<u>Category 1 young person</u> Defined in section 104 (2) of	The local authority has the same statutory obligations in relation to category 1 young

DRAFT

<p>the Act as a child who:</p> <p>(a) is aged 16 or 17 (b) is being looked after by a local authority, and (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 or she reached 14 and ended after he or she reached 16⁴.</p> <p>Known throughout this code as a young person looked after aged 16 or 17.</p>	<p>people as they do towards other children looked after by them, including a duty to maintain their care and support 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 child's needs with a view to determining what advice, assistance and support it would be appropriate for them to provide him or her (both while he or she is still looked after and after they stop being looked after) - see section 107 of the Act. • as soon as possible after the assessment of needs is completed, prepare a pathway plan (which includes the child's care and support plan and personal education plan) • keep the pathway plan under regular review • appoint a personal adviser for the child.
<p><u>Category 2 young person</u> Defined in section 104 (2) of the Act as a child who:</p> <p>(a) is aged 16 or 17 (b) is not being looked after by a local authority or local authority in England, and (c) immediately before ceasing to be looked after, was a category 1 young person.</p> <p>Known throughout the code as a care leaver under 18.</p>	<p>Full duties are set out in section 109 of the Act.</p> <p>The local authority that last looked after the child must:</p> <ul style="list-style-type: none"> • safeguard and promote the child's well-being by maintaining him or her, providing him or her with or maintaining him or her in suitable accommodation, and providing assistance in order to meet his or her needs in relation to education, training or employment as provided for in his or her pathway plan • as soon as possible after any assessment of needs is completed, prepare a pathway plan • keep the pathway plan under regular review <p>appoint a personal adviser for the child (unless they already did so when he or she was a category 1 child).</p>

⁴ These periods and ages are specified in Regulations made under section 104(2)(c) of the Act.

DRAFT

Category 3 young person

Defined in section 104(2) of the Act as a young person who is aged 18 or over who:

- (a) has been a category 2 young person (and would continue to be so if he or she were under the age of) 18, or
- (b) was being looked after by a local authority when he or she reached the age of 18 and immediately before ceasing to be looked after was a category 1 child.

Known throughout the code as a care leaver aged 18 or over.

Full duties are set out in **section 110** of the Act.

The responsible authority for a category 3 young person must support that young person by:

- contributing to the extent that his or her well-being requires it to expenses incurred in living near the place where he is, or will be, employed or seeking employment
- contributing to the extent that the young person's well-being and educational or training needs require it, to expenses incurred in living near the place where he is, or will be, receiving education or training
- making a grant to the young person to the extent that the young person's well-being and education or training needs require it to enable him or her to meet expenses connected with his or her education or training
- doing anything else it considers appropriate to the extent that the young person's wellbeing requires it
- if the young person has a post-18 living arrangement, monitoring and maintaining the the arrangement by providing advice and support to the young person and the former foster parent
- taking reasonable steps to **keep in touch** with the young person, and re-establishing contact if they lose touch
- continuing to keep the **pathway plan** under **regular review**
- continuing the appointment of the **personal adviser** for the young person
- if the young person pursues higher education in accordance with his or her pathway plan, paying a higher education bursary
- providing the young person pursuing higher education with suitable vacation accommodation, or paying the young person enough to secure accommodation.

The duties continue until the category 3 young person reaches 21; or, where the programme extends beyond age 21, until the programme of education or training finishes. Where the young person ceases to pursue a programme of training or education in accordance with his or

DRAFT

	<p>her pathway plan, the local authority may disregard any interruption if it is satisfied that the young person will resume the programme as soon as reasonably practicable.</p>
<p>A category 4 young person means a person who:</p> <p>(a) is a category 3 young person towards whom the duties under sections 105, 106, 107(3) and (10) and 110 of the Act have ceased to apply (see section 111 of the Act)</p> <p>(b) has informed the local authority that he or she is pursuing, or wishes to pursue, a programme of education or training, and</p> <p>(c) has not reached the age of 25 or any lower age specified.</p> <p>Known throughout the code as a young person who reconnects to care for education or training purposes.</p>	<p>Full duties are set out in section 112 of the Act.</p> <p>The local authority for a category 4 young person must support that young person to the extent that his or her educational needs require it by:</p> <ul style="list-style-type: none"> • contributing to expenses incurred by the young person in living near the place where he or she is, or will be, receiving education or training • making a grant to the young person to enable him or her to meet expenses connected with his or her education or training • if the young person pursues higher education in accordance with his or her pathway plan, paying a higher education bursary • appointing a personal adviser for that person • preparing a pathway plan. <p>The duties continue until the category 4 young person reaches 25; or, where the programme extends beyond age 25, until the programme of education or training finishes. Where the young person ceases to pursue a programme of training or education in accordance with his or her pathway plan, the local authority may disregard any interruption if it is satisfied that the young person will resume the programme as soon as reasonably practicable.</p>
<p><u>Category 5 young person</u> means a person:</p> <p>(a) who has reached the age of 16 but has not yet reached the age of 21</p> <p>(b) with respect to whom a special guardianship order is in force (or was in force when he or she reached 18), and</p> <p>(c) who was looked after</p>	<p>Full duties are set out in section 114 of the Act</p> <p>The local authority must consider whether the young person needs support of a kind which it can give under section 114. If the local authority is satisfied that the person who was looking after the young person does not have the necessary facilities for advising or befriending him or her, the local authority must advise and befriend the young person and support them:</p> <ul style="list-style-type: none"> • in kind • by contributing to expenses incurred by

DRAFT

<p>immediately before the making of that order.</p> <p>Known in the code as a young person who left care under a Special Guardianship Order.</p>	<p>the young person in living near the place where he or she is or will be employed or seeking employment</p> <ul style="list-style-type: none"> • by contributing to expenses incurred by the young person in living near the place where he or she is or will be receiving education or training • by making a grant to to enable him or her to meet expenses connected with his or her education or training • by providing accommodation if support may not be given under the preceding 3 bullet points • in cash. <p>The local authority may also give support in certain circumstances if the young person is under the age of 25 and would be a category 5 young person if they were under the age of 21.</p> <p>In certain circumstances, the local authority may disregard any interruption in training or education if it is satisfied that the young person will resume the programme as soon as reasonably practicable. In these circumstances, it may provide the young person with suitable vacation accommodation or pay enough to secure accommodation</p>
<p><u>Category 6 young person</u> Means a person, other than a category 5 young person, who:</p> <ul style="list-style-type: none"> (a) at any time after reaching the age of 16 but while still a child was, but is no longer, looked after, accommodated or fostered (b) if so accommodated or fostered is now within Wales, and (c) has not yet reached the age of 21. <p>Known throughout the code as a young person who did not qualify as a care leaver.</p>	<p>Full duties are set out in section 115.</p> <p>The local authority must consider whether the conditions below are satisfied in relation to the young person:</p> <p>The young person needs support of a kind which the local authority can give, and the local authority is satisfied that the person who was looking after, accommodating or fostering the young person does not have the necessary facilities for advising or befriending him or her. If these two conditions are met, the local authority must advise and befriend the young person.</p> <p>Where the local authority, by virtue of section 115, is under a duty or is empowered to advise and befriend the young person it may provide support:</p> <ul style="list-style-type: none"> • in kind • by contributing to expenses incurred by the young person in living near the place

DRAFT

	<p>where he or she is or will be employed or seeking employment (<i>this and the following two bullets are only available if the young person is in this category by virtue of falling within section 104(3)(a) of the Act</i>)</p> <ul style="list-style-type: none">• by contributing to expenses incurred by the young person in living near the place where he or she is or will be receiving education or training• by making a grant to the young person to enable him or her to meet expenses connected with his or her education or training• by providing accommodation if support may not be given in respect of the accommodation mentioned above• in cash. <p>The local authority may also give support in certain circumstances if the young person is under the age of 25 and would be a category 6 young person if they were under the age of 21.</p> <p>In certain circumstances, the local authority may disregard any interruption in training or education if it is satisfied that the young person will resume the programme as soon as reasonably practicable. The local authority may then provide the young person with suitable vacation accommodation, or pay enough to secure accommodation.</p>
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Transitioning

A key outcome for all young people leaving care is that they are provided with the support they need to make a successful transition to adulthood and move towards more independent living.

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 and support should make sure that they are provided with the opportunities they need, which will include offering them more than one chance as they come to terms with taking on the responsibilities of adulthood.

It is not just social services that impact upon these young people. Once a child is in care **all** elected members and officers of the local authority, as

DRAFT

corporate parents, need to be concerned about that child and must take the following principles into account when engaging with them and making any decision concerning them:

- is this good enough for my own child?
- does this provide a second chance if things don't go as expected?
- is this tailored to the child's individual needs, particularly if they are more vulnerable than other children?

This concern should encompass the child's education, health and wellbeing; what they do in their leisure time and holidays; how they celebrate their culture; and how they receive praise and encouragement for their achievements. This concern continues as the child becomes a young person and begins to prepare for the time when they leave care.

The young person's Independent Reviewing Officer (IRO) has a crucial role in making sure that a young person's views are taken into account in planning for transition from care. Before any move can take place, there must be a statutory review meeting, chaired by the IRO, to evaluate the assessment of the young person's readiness and preparation for any move. No young person should be made to feel that they should 'leave care' before they are ready.

The young person, the professionals responsible for contributing to the young person's care and support plan and pathway plan, and the review must all agree that the young person has developed the skills necessary to manage any transition to more 'independent living' where less support will be provided. Local authorities must ensure that each care leaver is provided with appropriate leaving care support, and that the young person's needs for care and support are subject to ongoing assessment and review.

Plans for transition to adulthood must be in place for all looked after young people 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 made⁵ by way of respite care, but must include a period of time (at least 24 hours) after reaching the age of 16.

Planning for transition to adulthood must take place for every looked after young person regardless of any other status that a young person may have. Regulation 6 of the Care Leavers (Wales) Regulations 2015 defines an additional group of young people who would have qualified for help under the 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.

⁵ See regulation 62 of the Regulations which defines the term

DRAFT

Young people aged 16 or 17, who were previously looked after and have returned home (i.e. moving from looked after aged 16 or 17 to care leaver under 18), will revert to being a looked after young person aged 16 or 17 if this arrangement breaks down before their 18th birthday.

The responsibilities set out in the Act and the Regulations for planning continuing care and support apply 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 Act includes provision so that, where young person 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 support from a personal adviser as a young person who reconnects to care.

Where a young person reconnects to care for education or training, the Act requires a local authority, where they assess there is a need, to provide either vacation accommodation (or the means to secure it) to the young person up to the age of 25.

Local authorities may give advice, guidance and assistance to certain groups of young people who qualify for leaving care support. Some young people who left care under a special guardianship order (a 'category 5 young person'), or who did not qualify as a care leaver ('category 6'), may be as vulnerable, and have very similar needs to, young people looked after age 16 or 17, care leavers under 18 or care leavers 18 and over, and local authorities will need to ensure that are responding adequately to these young people's individual needs.

Regulations set out which local authority is responsible for providing aftercare services to a young person who left care under a special guardianship order or did not qualify as a care leaver. In the case of a young person formerly looked after by a local authority, the relevant authority is the one which last looked after them. In the case of someone qualifying for information, advice and assistance under any of the other provisions, the relevant authority is the local authority in whose area the person has asked for help.

Where a qualifying young person has been previously looked after, the local authority must assess their needs to establish whether they require information, advice and assistance. Where, following an assessment, the authority concludes that care and support will be necessary over a period of time, they should draw up a plan with the young person outlining the care and support that will be provided. The plan that follows might follow the same format as a pathway plan for a care leaver under 18 or aged 18 and over. The plan will outline the care and support to be provided to the young person,

DRAFT

including, if necessary, any financial support. The plan should be drawn up by a suitably qualified person.

A young person who was not looked after for 13 weeks may also need information, advice and assistance. 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 a young person who did not qualify as a care leaver under Part 6 of the Act – support to the young person and his family should instead be provided under Part 4 of the Act ('meeting needs').

The local authority should provide written and web-based information to young people who left care under a special guardianship order or did not qualify as a care leaver, informing them about their entitlement to an assessment and the range of services they might expect to receive as a result. This must include clear details about how to access the local authority's complaints and representation procedures under Part 10 of the Act.

Special guardianship

Children who were looked after by a local authority immediately before the making of a special guardianship order may qualify for Information advice and assistance under the Act as a young person who left care under a special guardianship order (a 'category 5 young person' – see table above). Section 104(2) defines that young person as a person:

- who has reached the age of 16, but not the age of 21
- with respect to whom a special guardianship order is in force (or, if the young person has reached the age of 18, was in force when he or she reached that age)
- who was, immediately before the making of that order, looked after by a local authority.

The relevant local authority should make arrangements for young people who meet these criteria to receive information, advice and assistance.

Advocacy services

Part 10 of the Act imposes duties on local authorities in respect of statutory advocacy services. 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, but includes situations where children or young people need to

DRAFT

make representations about the quality of the care and support provided by the local authority.

Access to advocacy will be particularly important where the local authority's decision-making processes concern the child or young person's readiness to move from their care placement. They may frequently require independent support to enable them to put their views across, and to express their wishes and feelings about the help they feel they will need for the future.

Care and support planning and pathway plans

Transition to adulthood for looked after children should not start on their 16th birthday. Preparation for a time when they will no longer be looked after should be integral to the care and support planning process throughout their time in care.

The Act requires a pathway plan to be prepared for all young people looked after after age 16 or 17, care leavers under 18 or care leavers 18 and over. Each young person's pathway plan will be based on and include their care and support plan and will set out the actions that must be taken by the local authority, the young person, their parents and carers, and each of the agencies involved with the young person, so that the 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 how those services will be provided to help the young person meet the outcomes set out in the pathway plan.

All care leavers, under and over the age of 18, must have a pathway plan based on an up-to-date and thorough assessment of their needs.

The pathway plan must address:

- **the young person's health and development**

This will build upon the information in the young person's health plan, which formed part of their care and support plan when they were looked after.

- **education, training and employment**

The personal education plan should continue to be maintained while the young person continues to receive full or part-time education. Information within the plan 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.

DRAFT

- **contact with the young person's parents, wider family and friends**

This includes the capacity of this network to encourage the young person and enable them to make a positive transition to adulthood.

- **financial capabilities and money management**

This will focus upon the young person's capacity to manage their own finances, and outline strategies to develop the young person's skills in this area.

The assessment and pathway planning process for a looked after child must involve a measured evidence-based analysis of the young person's continuing need for accommodation and care and support, including whether they should continue to remain looked after. Where the care and support 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 and support 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.

Where there is any proposal for the young person to move to different accommodation, as part of their transition to adulthood, the pathway plan must include an explicit assessment of the care and support they need to develop the skills to be ready for this significant change. The plan must also include a thorough assessment of the suitability of the potential accommodation for the young person.

It is very important that information about the young person's financial capability is fully up-to-date and has been assessed thoroughly before any move to more independent living takes place.

Pathway plans for care leavers under 18

A pathway plan must be prepared for each care leaver under 18. This pathway plan should be prepared prior to the young person ceasing to be a looked after child (i.e. when they are looked after age 16 or 17), and considered at a statutory review chaired by the young person's independent reviewing officer.

The professional preparing the pathway plan on behalf of the local authority (usually the young person's allocated worker) must engage constructively with the young person to define priorities and the focus of the plan. In addition they should consult with:

DRAFT

- the young person's parents, other adults with parental responsibility and relevant members of their wider family network where appropriate and safe to do so
- the young person's current carer and any prospective future provider of housing and accommodation support
- the young person's designated person in school, 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
- the designated nurse for looked after children or any other medical professional providing health care or treatment named in their health plan
- any personal adviser already appointed to support the young person
- the young person's independent reviewing officer
- any advocate acting for the young person.

It is 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.

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.

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 the 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 personal adviser, as evidence of their commitment to achieving the plan's objectives.

Personal advisers

Once a young person ceases to be looked after and becomes a care leaver (whether this happens before they reach 18, or when they reach legal adulthood at age 18), then the local authority will no longer be required to

DRAFT

provide them with a social worker to plan and co-ordinate their care and support.

The local authority must, however, appoint a personal adviser (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.

It is good practice, where possible, for the young person to retain the same PA at the age of 18 who was allocated to them when they were looked after age 16 or 17 or a care leaver under 18. 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 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

There is no prescribed professional or occupational qualification determining which professional should carry out the PA function for any individual care leaver.

Anyone appointed as a PA should:

- possess a sound demonstrable understanding of a young person's developmental and emotional needs
- understand the insecurities faced by looked after children as they make their transition to adulthood
- have a working knowledge of the range of issues that care leavers might face as they make their transition to adulthood
- understand the legal framework affecting care leavers
- be capable of understanding and acting upon relevant legislation concerned with housing and homelessness.

Local authorities should recruit a suitably wide pool of PAs, so that young people have a genuine choice, bearing in mind considerations of gender and ethnicity. Young people will have views about the kinds of qualities they will expect from their PA, and these should be taken into account when matching an individual care leaver to a PA, although the local authority must always be satisfied that the PA they appoint has the requisite skills and the necessary

DRAFT

availability. The final decision as to who will be suitable to act as a PA for a particular care leaver rests with the local authority.

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 local authority must be clear what care and support the carer will be providing and how any potential conflicts of interests will be managed – for example, where the young person is living as member of the carer's family, as in a 'When I am Ready' arrangement.

Functions

Regulations set out the functions of a PA for a care leaver under 18 and for a care leaver aged 18 and over.

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

The pathway plan should include details of the kind of support 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, and 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, including how to access targeted and specialist health services (for example, 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.

The pathway plan will also need to include scope for contingencies that might occur as the relationship changes over time.

DRAFT

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

The PA will be the key professional responsible for co-ordinating the 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.

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 care and support. However, it is important to note that, for a care leaver under 18 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 young person's best interests. For all care leavers, 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.

(c) To participate in reviewing the pathway plan

The PA must make sure that the pathway plan is reviewed at the prescribed intervals, 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.

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 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 local authority in implementing the pathway plan

Every PA needs to understand the arrangements for liaising with the relevant local authority so that the pathway plan is implemented. The local 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.

DRAFT

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

In carrying forward or helping draw up the pathway plan, the PA will need to have identified the range of services necessary to respond to each of the young person's needs. The PA will have to coordinate how services are provided for the young person, developing constructive professional relationships so that all agencies are committed to enabling the young person to make a successful 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.

It is also essential that the PA has been able to engage with 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 they receive.

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

PAs must be in regular face to face contact with every care leaver they support. The pathway plan must set out expectations for contact and, if relevant, arrangements for staying in touch in other ways. This could, for example, include regular exchanges of text messages, emails and phone conversations between the PA and the young person.

Regulations require that when a care leaver moves to new accommodation, the PA must see them at that accommodation within seven days of the move. Subsequently they must see the care leaver when the pathway plan is first reviewed (after 28 days), and then visit the care leavers at no less than two monthly intervals. It is important to understand that these are minimum requirements. Where care leavers experience problems, they can expect much more frequent personal contact with their PA.

Visits should take place where the young person lives, and on each visit the PA must consider whether the accommodation continues to be suitable. 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 managing their financial commitments for rent and utilities. 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

DRAFT

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

The PA will be responsible for keeping an up-to-date record of their involvement with each care leaver (and therefore of the local 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 pathway 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.

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.

Budget holding

The PA is responsible for co-ordinating the services provided to meet the care and support needs of individual care leavers. These will include enabling care leavers to develop financial capability and to access income maintenance services. The local authority is also accountable for accommodating and maintaining care leavers. 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.

Training and supervision

Supervision of PA's will fulfil a number of functions:

- to ensure that the PA is offering each young person on their caseload the care and 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
- to identify their training and development needs.

Supervisors should be responsible for making sure that case records are in order and up-to-date, and that the PAs' recording conforms to agency standards. Apart from regular supervision meetings with the PA, supervisors

DRAFT

should be appraising each PA's performance by inviting regular feedback from other agencies and from the young people themselves.

Personal adviser support up to age 25

Section 104(2) of the Act states that young people, who were care leavers under 18 or 18 and over and who were eligible for leaving care services, and who resume programmes of education or training after the age of 21, are entitled to continuing support from a PA allocated from the relevant local authority.

In this context, the definition of a programme of education or training must be interpreted broadly. For example, this might include:

- completion of a basic skills course, so that the young person has the numeracy and literacy skills needed to compete in the jobs market
- taking up a course of further education
- taking up a university place
- support to enable the young person to complete a recognised postgraduate qualification
- participation in vocational training and apprenticeships.

Each local authority should develop its own specific policy setting out the care and support it is prepared to offer this group of care leavers.

Policies should include the following information:

- arrangements about how young people can resume contact easily with the local authority so they can take up this care and support
- details of how the authority will work with the young person to develop a new education and training focused pathway plan
- information about any financial support.

In every case where a care leaver requests this care and support, local authorities will need to assess the appropriateness of the education or training course and how it will help them to achieve their ambitions. This assessment could well 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.

The re-instated pathway plan must have a specific focus on the care and support the individual care leaver will need in order to meet the education or training goals agreed with the local authority.

DRAFT

It is possible that young people may seek care and support to complete a series of education or training opportunities, and local authorities will need to assess their need for continuing assistance in this regard.

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.

Care leavers aged 18-24

The Act requires a local authority to continue to provide various forms of IAA and guidance to young people over the age of 18, who are making the transition from care to more independent living arrangements. These requirements apply if they have previously been looked after age 16 or 17 or care leavers under 18, who are described as care leavers 18 and over (and may apply to young people who left care under an SGO or did not qualify as a care leaver, depending on the local authority's assessment of their needs).

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.

Relevant parts of sections 109 to 115 of the Act give 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 young people who left care under an SGO or did not qualify as a care leaver.

Duties

For care leavers under 18, the responsible authority's requirements to provide support are set out in section 109 of the Act. They will continue to:

- provide the young person with a PA
- review and revise the pathway plan regularly
- keep in touch.

Pathway plans for care leavers 18 and over

Care leavers aged 18 and over will continue to have a pathway plan. The plan will cover the same topics and fulfil the same functions as the pathway plan for care leavers under 18.

However, the local authority will no longer be primarily responsible for the young person's financial support and maintenance. The plan will need to be

DRAFT

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.

As they mature and develop, care leavers should be able 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.

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 ensure that young people are offered the right kind of care and support to enable them to succeed, while also recognising that they may need to experience and learn from failure along the way.

If a care leaver age 18 and over 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.

Depending on whether the young person has any outstanding needs, the final year of pathway planning should be focused on identifying sources of community-based care and support outside of the local authority's young people's services. For care leavers whose health or ongoing care and support needs do not meet the criteria for support by adult services, the PA should ensure that all possible forms of care and support, including that offered by the voluntary sector, are identified and facilitated as appropriate.

Review of pathway plans

Regulations set out the arrangements for reviewing the pathway plans of all care leavers. Regulations require the local authority to arrange a review in circumstances where it, or the PA, consider it necessary, or where the care leaver requests it. Where a care leaver under 18 moves to unregulated accommodation (i.e. accommodation that is not regulated under the Care Standards Act 2000 and is not inspected by the Care and Social Services Inspectorate Wales), 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 young person's needs, one of the

DRAFT

essential functions of this review will be to establish that they have settled into their accommodation and that this is, in practice, suitable for their needs.

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 person concerned.

It is 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 care leaver under 18, 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.

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 reviews 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.

For example, given the serious implications for a young person's future, the local authority, or a care leaver's PA, might decide that a review should take place:

- where a young person has been charged with an offence and there is a possibility of being sentenced to custody, and therefore a risk of 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 care leaver, and there is 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.

Each local authority must have a policy about how reviews for care leavers will be chaired.

DRAFT

The young person must be engaged in making arrangements for how the 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.

Young people should be encouraged to take increasing responsibility for the review of their personal pathway plan, and it will be good practice to support them, if they wish, to chair their own pathway plan reviews (with support from the chairperson, if appropriate).

Record keeping

Regulations contain provision that requires that the local authority keep a written record of:

- the information obtained during an assessment
- the deliberations of any meeting held in connection with any aspect of an assessment
- the identity of the people whose views were sought for the purposes of the assessment
- the outcome of the assessment.

The regulations require that the pathway plan must be recorded in writing, the local authority must keep a written record of the young person's views, and and the results of any review must also be recorded in writing. They also contain a duty to maintain a case record, which should include any assessment of needs, any pathway plan, and any review of a pathway plan.

The pathway plan, and the assessment informing it, must provide a full and accurate record of the young person's needs, with explicit information about their wishes and feelings for their future. Each young person must have a copy of their 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 local authority must assure itself that the agency understands its responsibility to maintain confidentiality, and make arrangements for secure storage of documents containing personal information about care leavers. Authorities will need to satisfy themselves that they are complying with the Data Protection Act when sharing information.

Where young people have complex needs and a range of agencies are involved in supporting their pathway plan, then it may be helpful to agree

DRAFT

arrangements for information sharing at a multi-agency meeting, to confirm or to review the pathway plan.

Keeping in touch

The local 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. Some visits must take place at the accommodation where the young person is living, so that the PA can assess whether the accommodation remains suitable. Keeping in touch between visits might involve a range of communication methods - for example, email, phone and text message contact.

It is important that the local authority respects the privacy of a young person and their right to decline support. However, the local 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 for continuing contact is for the PA to have established a positive and meaningful relationship with the care leaver. Individual local authorities, as good corporate parents, will need to develop services that are flexible to the needs of the care leaver, so that the young person remains fully engaged.

Education, training and employment

The young person's personal education plan (which forms part of the overall care and support plan for a looked after child) should already contain information about the young person's career aspirations and ambitions. This should be developed further as part of the pathway planning process when the young person turns 16. Care leavers should be offered work experience and other opportunities to allow them to test their career aspirations and needs.

The young person must also be provided with access to high quality information, advice and assistance, to help them plan any move 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 them to reflect regularly on their skills, strengths and aspirations.

The quality of the support provided to the young person, to help them succeed in education and make progress towards their preferred career pathway,

DRAFT

should be considered as part of the pathway review process. This will include the quality of support from the young person's carers, school, college and PA.

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 should take into account the universal financial support the young person will receive, and allow the local authority to assess whether the young person requires any additional financial contribution from the authority.

Local authorities must work jointly with Youth Services and Careers Advisers to ensure that young people are fully aware of the options and entitlements available to them. Career planning tools should be used, as appropriate, to inform young people's pathway plans.

Young people require a great deal of stability when undertaking education activities. Early planning is vital when they are considering attending university, particularly where they are moving away from their home area. Arrangements for the period between their 18th birthday and the point at which they commence higher education courses must be agreed well in advance of them turning 18. Arrangements may need to be made for young people to remain with the families who have fostered them beyond their 18th birthday (see Chapter 6 on 'Post-18 living arrangements'), and plans need to be made for the vacation breaks.

Young people need to know what practical and financial support they will receive from their local authorities. Each authority should, therefore, have a written policy they give to looked after children and care leavers, detailing the financial support 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.

Pathway planning must continue for care leavers aged 18 and over in any continuing education or training. As many young people at university will be living away from their home area and existing support networks, the pathway plan must set out what practical support they can expect from their home local authority. This 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, to ensure that the higher education institution is firmly engaged with the pathway planning process, and that the care leaver is getting every possible support.

DRAFT

Pathway plans must also set out arrangements for accommodation, 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, they must be provided with stable alternative accommodation best suited to their personal circumstances. Some young people may return to their home area. Others may prefer to remain in the area of their university, and many universities now provide 52 week accommodation. Early planning is essential, regardless of which option is chosen.

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 the pathway plan.

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

Young people who have lived in the United Kingdom for more than three 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

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

Regulations made under **section 116** of the Act make provision for local authorities to pay a one-off Higher Education Bursary to care leavers aged 18 and over who pursue a higher education course in accordance with their pathway plan. This is in addition to their duty to provide assistance for education and training under the Act. The Regulations specify:

- the payment arrangements local authorities need to put in place

DRAFT

- the amount of the bursary
- the meaning of higher education for the purpose of determining eligibility for the bursary
- arrangements in relation to the timing of payments
- the circumstances in which payments may be withheld or recovered by the local authority.

Apprenticeships

Local 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 work experience, apprenticeship and other training and employment opportunities.

Care leavers who require additional specialist support

Some care leavers may require specialist support in addition to the general provision set out above. These include:

- disabled young people
- unaccompanied asylum seeking children
- care leavers in the youth justice system.

The following sections set out the arrangements for meeting the needs of these young people.

Disabled young people making the transition to adult services

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. Their health, social care and education needs will vary depending on the nature of their disability, and they will often experience different professional languages, styles, expectations and cultures as they make the transition to adulthood.

The definitions in the Act and other legislation governing provision for disabled adults often differ, and there may also be different thresholds of eligibility for services.

Care leavers with complex needs, including disabled young people, may require continuing services as they transition to adulthood. The pathway plan

DRAFT

will need to ensure that this transition is seamless and supported. Local authority responsibilities towards disabled care leavers are the same as for all other care leavers. Because of their additional needs, some young people may draw on a number of services, receive support from several professionals and have multiple plans. The local authority must ensure that these processes are streamlined as much as possible, and that roles and responsibilities are discussed with the young person and their carers.

Each disabled young person will have their own individual aspirations, hopes, needs and wants. Although different services will have their own eligibility and access criteria, they must work together in a holistic way, based on assessment of individual needs and informed by each young person's well-being outcomes.

The care and support plan will ensure that planning for transition to adulthood is focused on what is important to the young person for the future, and on 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 that 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.

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

For transition to become a positive experience for young people and their families, all agencies must work together and understand each other's roles, responsibilities, professional frame of reference and legal duties within the transition process. To ensure 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 social care, children's and adult health services, education, housing, youth offending, information, advice and guidance services, supported employment services and leisure services.

DRAFT

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 identify their needs and plan individualised care and support packages. To avoid duplication, 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.

Care and support planning, linked to outcome-based assessments, will be important in enabling transitions between services. Under the Act eligibility is not about accessing a particular service, but about ensuring that people have access to care and support to achieve their well-being outcomes. Joint protocols must reflect the fact that the age-related policies of different agencies may not fit easily with the realities of the transition process for young people leaving care. For example, young people generally transfer from child to adult health services at 16, 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, in that child and adolescent mental health services (CAMHS) 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. Protocols should allow for a flexible approach, which recognises the corporate responsibility of the various agencies towards young people leaving care.

Where it is likely that a care leaver will require continuing care and support as a young adult, it will be good practice to make a formal referral as early as possible from age 16, so that eligibility is established in time for their 18th birthday. Protocols should clarify the 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 the eligibility criteria of different services under different legislation.

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 onwards.

Disabled young people living out of area

Where disabled young people in care have been placed out of their home area, their home local authority authority retain responsibility for the child in respect of care and support and education. The local health board where the young person is registered with a GP will be responsible for day-to-day health

DRAFT

needs, but the local health board for the originating local authority area will retain responsibility for commissioning any secondary health services.

As care leavers living out of area turn 18, responsibility for provision of services may change. The home (or placing) local authority will need to ensure that continued leaving care support is provided under the Act. However, responsibility for providing care and support under Part 4 of the Act may change depending on the young person's personal circumstances and their accommodation choices (or, in appropriate circumstances, those made on their behalf). Local authorities should refer to the guidance on 'ordinary residence' contained in the code of practice relating to Part 11 of the Act.

Relevant agencies providing health and continuing 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, especially where responsibility transfers from one local authority to another.

Social care provision for adults

Eligibility for care and support provided by or arranged by the local authority is set out in Part 4 of the Act, the Regulations made under that Part and relevant code of practice.

Where disabled young people meet the eligibility criteria for adult placement schemes (commonly called 'shared lives'), it may be appropriate for the former foster carer to become that person's adult placement carer once they turn 18, if they are willing to continue in a caring role.

Where it is likely that a young person leaving care will need services into adulthood, children and adult social services should both contribute to the pathway planning process from age 16 onwards. The change of lead worker from children's to adult services should be managed within that planning process, taking account of the young person's wishes and based on an assessment informed by an understanding of the young person's circumstances and well-being outcomes.

Where disabled and vulnerable care leavers transition to adulthood, and no longer receive services as a looked after child, 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 should contain information about a young person's financial abilities, the allowances and benefits the young person is entitled to, and who will assist them to manage those allowances and benefits.

DRAFT

(b) Unaccompanied asylum seeking children (UASC)

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.

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 while entitlement to remain in the UK is being determined.

Pathway planning for a UASC who does not have permanent immigration status should initially be based on:

- a transitional plan covering the period of uncertainty when the young person is in the UK without permanent immigration status
- a longer term plan for when / if the the young person is granted long term permission to stay in the UK (for example, through being granted refugee status)
- planning for return to the 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.

These plans should be refined over time as the young person's immigration status is resolved.

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 and the possible outcomes, and to provide them with necessary support.

There are several possible outcomes of the asylum claim:

- **granted refugee status** (i.e. granted asylum)
- **refused asylum but granted humanitarian protection**
This is most commonly granted when the person is at some risk of 'ill-treatment' in the country they left but does not meet the criteria of the Refugee Convention. It is a rare category for an UASC.
- **refused asylum but granted discretionary leave**

DRAFT

This is normally for three years or until the age of 17.5, whichever comes first. Discretionary leave 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).

- **refused asylum with no grant of leave**

In this case the UASC must return to his or her country of origin.

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 UK, in the same way as for any other care leaver.

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 years of age.

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 UK 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

Financial support for UASC should reflect their needs as looked after young people (looked after aged 16 or 17 moving to care leaver under 18 or 18 and over) and their immigration needs. Financial policies should highlight their entitlements and how their immigration status may impact on current and future entitlements.

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.

DRAFT

Pathway plans should always consider the implications for the young people if the 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

Although 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.

This section should be read in conjunction with the code of practice relating to Part 11 of the Act, which deals with those held in the secure estate. Children and young people in youth detention or secure children's homes, as a result of being convicted and sentenced in the criminal justice system, are regarded as being the responsibility of their Welsh home local authority while they are in custody.

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

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 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

If a care leaver under 18 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.

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

DRAFT

specialist accommodation schemes, to ensure that there are viable alternatives to a remand to secure accommodation.

It will be essential that continuing leaving care support (as modified by Part 11 of the Act and the Regulations to take account of the overlapping responsibility of the local authority and the criminal justice service) is available to care leavers under 18 if they are convicted and sentenced to a community sentence, or imprisonment. This group of care leavers will be especially vulnerable, and will require carefully planned and well-focused care and support from their responsible authority.

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 these should be included in the report.

Children detained in, or remanded to, the secure estate

Part 11 of the Act (sections 185-188) modifies certain duties which a local authority owes to those detained in the secure estate in respect of assessing and meeting the care and support needs of:

- adults in the secure estate in Wales
- children who are ordinarily resident in Wales and who are detained in the secure estate, whether in England or Wales
- certain children who are ordinarily resident in England but who are placed in the secure estate in Wales⁶.

The provisions Act fully apply to all adults and children in the secure estate with the exception of provisions which are covered in section 186(4). The effect of these provisions (amongst others) is that a young person in the secure estate:

- cannot be a carer if they are detained in youth detention accommodation
- cannot receive direct payments towards meeting the cost of their care and support needs if they are in youth detention accommodation
- cannot express a preference for their accommodation while they are in custody, although they would be able to do so if they were expressing a preference for accommodation they would occupy upon their release (subject to any risk assessments and licensing provisions)

⁶ See the footnotes to the Visits to Children in Detention (Wales) Regulations 2015 for a reference point as to who has responsibility for what and under which Regulations.

DRAFT

- cannot have their property protected while they are in youth detention.

It is important to note that all agencies working with young people within the secure estate will be encouraged to work with parents and carers of the young people, and to include them in any decisions and planning arrangements where appropriate.

Responsibilities of local authorities

The Act has removed the existing uncertainty about the division of responsibility for the provision of services to meet the needs for care and support of those persons detained in custody. Local authorities in Wales will be responsible for the assessing and meeting the care and support needs of 'relevant' children and young people in the secure estate regardless of where in the secure estate they are placed. If the child or young person has been ordinarily resident within a local authority area, or has been looked after by that authority, then the local authority will be responsible for that young person and this will be known as the 'Welsh home local authority'. Section 186 (1) of the Act sets out the criteria for determining a 'relevant' child. A child or young person who is in the care of a local authority by virtue of a care order under section 31 of the Children Act 1989 will retain their status as a looked after child, and their home local authority⁷ will continue to have duties towards them, although the duties are modified by the provisions of Part 11 of the Act and the Regulations.

The Legal Aid, Sentencing and Punishment of Offenders Act 2012, which came into effect in November 2012, provides that any young person remanded to youth detention accommodation will be treated as looked after by the designated authority. This means that all young people who are securely remanded to youth detention accommodation are entitled to 'looked after' status (whether or not they have had any previous involvement with the local authority).

Care leavers in custody

Any child aged 16 or 17 who:

- at the time **when he attains the age of 16** is detained or in hospital, and
- 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 'category 2 young person' entitled to continuing leaving care support.

⁷ The duties are modified to take account of the division of responsibility between the criminal justice service and the local authority.

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For the purposes of this code, '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 court.

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 crime under the Powers of Criminal Courts (Sentencing) Act 2000, 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 resilient and responsible adults.

Where a care leaver under 18 enters custody, pathway planning must continue⁸. 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 should not necessarily be fulfilled by a YOT worker. The establishment should facilitate the visits, and PAs should be afforded the same status as legal visitors. The relevant local authority must liaise with criminal justice services to support the young person emotionally, practically and financially while in custody. The local authority must also contribute to the plan for the young person's 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, to give sufficient time for pre-release planning. For a care leaver under 18, it should be exceptional for a review not to take place.

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.

Where a looked after child or care leaver under 18 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:

1. There should be immediate liaison with the young person's accommodation provider, discuss options.
2. There should also be liaison with the local authority's housing advice and/or homelessness service to obtain expert advice on the young person's options.

⁸ As modified by Part 9 of the Care Planning, Placement and Case Review (Wales) Regulations 2015

DRAFT

3. 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.
4. 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.
5. 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 will need to divert them from further offending, if a stable base has been secured for them.

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.

It is essential that there is clarity about who is responsible for each element of the young person'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 holding the young person, and other agencies involved with supporting the young person after release, including, wherever appropriate, their family.

Community support

The local authority's leaving care service 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

DRAFT

of any order and the care leaver's offending behaviour rather than their wider needs.

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.

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.

The PA and supervising YOT/probation officer should keep each other informed of significant events, including any changes in service delivery or plans. While 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.

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 has not yet reached legal adulthood.

Planning and arranging suitable accommodation for the transition to independent living

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 independent living options with appropriate support – for example supported accommodation schemes, supported lodgings, and access to independent tenancies in the social and private rented sectors with flexible support.

This section needs to be read in conjunction with the code of practice relating to Part 11 of the Act, in relation to the accommodation needs of young people released from custody.

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Strategic planning and partnerships

Under the 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 looked after children under Part 6 of the Act. Those other authorities 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.

The local authority's 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
- **ongoing care and support** to ensure young people are able to maintain their accommodation, and **early intervention** if things start to go wrong
- **personalised care and 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 care and support services.

Local authority social services should be engaged with the local authorities' strategic housing function. The anticipated accommodation and care 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.

Local authority social 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

DRAFT

involving young people and key stakeholders, to inform these strategies and plans.

Commissioning housing and support services

Good links should be established between the commissioning arrangements of children's services and housing-related support services, in order 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, supported lodgings, and specialist provision.

Joint protocols

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.

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 Authorities 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.

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
- pathway planning systems that anticipate accommodation needs
- 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

DRAFT

- planned access to accommodation and support for care leavers who will need accommodation on release from custodial institutions
- supported transitions to adult services where needed, such as adult social care, adult mental health services, substance misuse services and the Probation Service.

The joint protocol should also set out arrangements for engaging 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.

Suitable accommodation

The Act requires the local authority to provide care leavers under 18 with, or maintain them in, suitable accommodation.

Regulation 9(2) of the Care Leavers (Wales) Regulations 2015 defines suitable accommodation as accommodation:

- which, so far as reasonably practicable, is suitable for the young person in light of his or her needs, including their health needs
- in respect of which the responsible authority has satisfied itself as to the character and suitability of the landlord or other provider
- in respect of which the responsible authority has (so far as reasonably practicable) taken into account the young person's wishes and feelings, education, training or employment needs.

In deciding whether accommodation is suitable, local authorities must have regard to the matters set out in Schedule 3 to the (draft) Care Leavers (Wales) Regulations 2015.

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.

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.

DRAFT

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.

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** – for example, by converting a foster placement to a post-18 arrangement or supported lodgings
- **supported lodgings**, other than with former carers
- **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
- **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**
- **post-18 living arrangements**, under which young people can remain with their foster carers beyond the age of 18 and up to age 21 (known as a 'When I am Ready' arrangement) – see Chapter 6 of this code.

Supported lodgings

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.

DRAFT

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.

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 carers or hosts
- nature and level of support for carers or hosts
- financial support to the hosts
- referral and matching criteria for young people to carers or hosts
- expectations of carers or hosts and young people
- safeguarding frameworks
- financial arrangements (young people aged 16 and 17 and young people aged 18 plus)
- training available to carers or hosts
- the income tax, national insurance and welfare benefits frameworks affecting payments made to carers or hosts.

Supported housing

Supported housing 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. Schemes vary widely – for example, in the number of people living there, nature of the accommodation itself (self contained or with shared facilities), level of support provided and expected duration of stay.

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

In the majority of cases, independent living will entail the young person becoming a tenant in their own right. 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

DRAFT

rented sector can offer quicker access, greater flexibility, a greater choice of locations and opportunities to share with friends.

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 ensuring that the advantages and drawbacks of each are discussed with each young person as they plan to move to independent living.

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 that 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 ongoing support. Where possible, floating support should be designed to follow the young person so they can continue to receive it if they move house. Local authorities must also ensure that young people know where to get help immediately if they encounter problems.

Social rented housing

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 guidance 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.

Local authorities should use joint protocols to ensure that:

- personal advisers 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

DRAFT

retaining the opportunity to apply for a new tenancy in the future when they are better prepared for independent living.

Privately rented housing

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.

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

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.

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 purposes.

Contingency planning and homelessness

The homelessness legislation (Part 7 of the Housing Act 1996) 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.

DRAFT

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.

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.

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.

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.

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 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 inappropriate accommodation.

Tenure for young people aged 16 and 17

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 under 18 years of age.

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

DRAFT

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.

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).

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.

Vacation accommodation

The Act requires that a local authority ensures that any care leaver in full-time residential further education or higher education (regardless of whether they fall within categories, 3, 4, 5 or 6) 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.

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 care and 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.

Finance matters

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

DRAFT

support that families provide, be flexible to the differing needs of care leavers, and 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

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.

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.

Every local authority must have in place a clear and transparent financial policy, setting out what entitlements young people have, what conditions are attached to them, and how any payments will be made. 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.

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.

Policies should be accessible and be easily understood by young people. The policy should be published on the local authority's website, and a copy of should be given to all looked after children and care leavers. Local authorities

DRAFT

should involve young people in developing 'user friendly' versions and formats.

General principles for developing financial capability and transparency

Financial policies to support transition to adulthood

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.

Priorities will include:

- education, training and employment costs, such as extra tuition, travel costs, interview and work related expenses and general costs associated with improving young peoples employability
- education materials and equipment
- further and higher education support (including the higher education 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, and 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).

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

DRAFT

and custody, disabled young people and unaccompanied asylum seeking children.

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.

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.

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.

Identification documents

Financial policies as well as pathway planning frameworks should assist young people to make the emotional, practical and financial transition to adulthood.

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

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

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

DRAFT

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.

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.

Local authority participation groups and service user groups may find it helpful to work with corporate parenting and senior management groups to help them understand the costs of establishing a home and therefore the level of the setting up home allowance.

Access to and the provision of financial support

Although 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 a 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.

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.

To support young people 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 some 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.

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

DRAFT

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

A care leaver under the age of 18 has an absolute right to have accommodation and maintenance provided by the local authority so long as their welfare requires it. This duty is not qualified by any requirements on the young person.

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.

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.

Emergency assistance

Arrangements should be made to assist young people to access emergency payments within their responsible authority area, should they require them. 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

Local authorities should use allowances like other 'good' parents to bridge the financial gap between local authority care and support and employment, education or benefit support. This includes, for example, 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.

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Local authorities should establish constructive working relationships with local Jobcentre Plus.

Young people who return home and young people living at home

Where, following a statutory review, young people aged 16 or 17 who are 'accommodated' under the Act by arrangement with their parents return home in a planned manner, they will cease to be looked after and will become a 'category 2 young person'. On returning home the young person's parent will be 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 'category 6 young person', 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.

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

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 local 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.

Maximising income and life chance opportunities for care leavers

Means tested and welfare benefits for a care leaver over 18

Local authorities, whilst not wanting to encourage young care leavers to become dependent on means tested benefits, should assist young people to

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maximise their income from benefits, education and training allowances and employment.

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.

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.

Disregarded payments

Payments made by the local authority under sections 109, 110, 114 and 115 of the Children Act 1989 are disregarded by the Department of Work and Pensions for the purpose of calculating entitlement to means-tested benefits. 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

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, education or training.

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 information, advice and assistance

For young people who qualify for information, advice and assistance under sections 114 or 115 of the Act, 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,

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may provide assistance to the same level of that provided to a looked after young person aged 16 or 17 or a care leaver.

Where a local authority has either a duty or a power to advise or befriend young people who have left care, it may also give assistance which may be in kind or in cash. 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.

Local authorities are encouraged to be pro-active in advising young people of the circumstances in which assistance can be provided. 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.

In addition to the general powers to provide assistance under section 114 or 115, local authorities have a specific power to provide assistance to these young people where this is connected with their employment, education, or training. Any such financial assistance or grant, where this is connected to a course of education or training, may be given to young people under 25.

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 young people who left care under a special guardianship order or did not qualify as a care leaver. This can be achieved through the provision of a specific section on such young people incorporated into the leaving care financial policy and in the published statement of the local authority's services.

Local authorities should provide information about the practical and financial services that are available to young people who left care under a special guardianship order or did not qualify as a care leaver. This information should be incorporated into an easy to read leaflet setting out the full range of services that those young people can expect and should be produced by the local authority and made freely available.

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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.

Sections 114 and 115 provide that the responsible authority must provide vacation accommodation, or the means to secure it, to any care leaver qualifying for information, advice or assistance under those sections, who is between the ages of 16 and 25, in higher education or in residential further education and who needs it.

Local authorities will need to be clear about which local authority is responsible for the provision of services to young people who left care under a special guardianship order or did not qualify as a care leaver.

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Chapter 6: Post-18 living arrangements

Developing arrangements for care leavers aged 18 and above to continue living with their former foster carers

Under **section 108** of the Act, local authorities will have new duties towards young people in foster care who wish to continue living with their foster parents beyond the age of 18.

Under section 108 local authorities will have to:

- ascertain, when carrying out pathway assessments and drawing up pathway plans for young people aged 16 and 17, whether the young person and his or her foster carers wish to make a post-18 living arrangement
- provide advice and other support to facilitate post-18 living arrangements, where the young person and foster carers wish to enter into them and provided the local authority is satisfied that this is not inconsistent with the young person's well-being.

Regulations specify who the local authority must provide advice and information to about post-18 arrangements, and the kind of advice and information to be provided.

Post-18 arrangements and 'When I am Ready'

The Act (**section 108(3)**) uses the term 'post-18 living arrangement' to describe a situation where a care leaver who has turned 18 years old continues to live with his or her foster parent/s in an arrangement facilitated by the local authority. It is important to note that these arrangements differ from foster placements. Once a young person has turned 18 and is an adult, they are no longer legally 'in care' or 'looked after', fostering arrangements and legislation relating to children placed with foster carers no longer applies, and the legal basis on which a young person live in the foster carer's home changes. The local authority is no longer making a 'placement', but facilitating a 'post-18 living arrangement' for that young person. In Wales, these are known as 'When I am Ready' arrangements.

'When I am Ready' is the name given to the scheme through which local authorities will fulfil their statutory duty to facilitate post-18 living

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arrangements. It was developed by the Welsh Government in partnership with local government and key third sector partners, and rolled out across Wales in 2015-16. Local authorities are expected to deliver the 'When I am Ready' scheme locally in line with the national guidelines set out in this code.

Throughout this chapter we have used the term 'When I am Ready' arrangement rather than 'post-18 living arrangement' to show that these arrangements are part of the 'When I am Ready' scheme.

Aims and outcomes

The main **aims** of 'When I am Ready' are:

- to provide stability and continuity for young people leaving foster care as they prepare for independent living
- to improve the life chances of looked after children
- to provide looked after children with increased opportunities to exercise choice and control over their lives.

'When I am Ready' arrangements allow a young person to continue living in a stable and nurturing family environment after they turn 18, up to the age of 21 or until they have completed an agreed programme of education or training. 'When I am Ready' helps ensure that young people do not experience a sudden disruption to their living arrangements which can have a negative impact upon their education, training or employment, or upon their developing independent living skills.

The overall **outcome** of 'When I am Ready' is that the young person will have the time and support to develop the necessary skills and resilience to make a successful transition to independent living.

The following **specific outcomes** have been set for 'When I am Ready' scheme, in line with the National Outcomes Framework developed by the Welsh Government to support the Social Services and Well-being (Wales) Act:

Stability and continuity

- young people leaving care continue to have security, protection, and practical and emotional support
- young people can continue to live in a supportive family and household environment

Improved life chances for looked after children

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- the opportunities for care leavers to access post-18 education, training and employment opportunities are maximised
- the number of foster care leavers experiencing periods of homelessness or housing instability is reduced
- young people leaving care receive on-going support and can develop the necessary emotional and practical skills before they are required to live independently
- young people have the confidence to move into independent living

Voice and control

- young people can exercise their voice and have control over the timing of their transition from care, and are not obliged to leave their former foster family before they feel ready to move to greater independence.

Eligibility

All 'looked after children' who have been placed in foster care by their local authority, and who are approaching the age of 18, are eligible to be considered for the 'When I am Ready' scheme.

In summary, a 'When I am Ready' arrangement may be made where:

- the young person was a 'looked after child' immediately prior to their 18th birthday and was living with foster carers in a placement arranged by the local authority
- the carers were acting as approved foster carers for the young person immediately prior to their 18th birthday
- the young person and the foster carers both wish to enter into a 'When I am Ready' arrangement, and the arrangement has been set out in the young person's pathway plan
- the local authority is satisfied that such an arrangement is not inconsistent with the young person's well-being
- a proportion of the allowance paid to the 'When I am Ready' carer will be paid for by the local authority.

'When I am Ready' arrangements can therefore be made for any young person who was previously in foster care, and who were looked after immediately prior to their 18th birthday, as long as the above criteria are met, regardless of whether the young person is undertaking full or part-time education, training or employment or none of these activities.

However, as the purpose of 'When I am Ready' arrangements is to prepare young people for independent living, and to improve their life chances, there

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should be a clear expectation that any young person accessing a 'When I am Ready' arrangement will commit to undertaking skills development to prepare for the future. This could include education, training, employment or volunteering. This expectation should be written into the young person's pathway plan and will form part of the 'Living Together Agreement' once the 'When I am Ready' arrangement has started.

The focus of 'When I am Ready' must be upon helping the individual young person leaving foster care to make a successful transition to adult living in a way that is right for them. Local authorities should apply the eligibility criteria flexibly and in the best interests of the young person, especially when making 'When I am Ready' arrangements for the most vulnerable and disadvantaged young people in foster care.

There is currently no provision for young people in residential accommodation (children's homes) to stay within that setting beyond their 18th birthday. However, the Regulations require these young people to be informed about 'When I am Ready' during the pathway assessment and planning process, so that they can be moved into a suitable fostering placement if they feel that a 'When I am Ready' arrangement will be right for them.

The Department for Work and Pensions (DWP) and Her Majesty's Revenue and Customs (HMRC) work to their own definitional frameworks in relation to post-18 living arrangements. Those frameworks take into account the differing schemes covering post-18 living arrangements in the different parts of the UK, including 'When I am Ready' in Wales and 'Staying Put' in England.

Duration of a 'When I am Ready' arrangement

Preparation for 'When I am Ready' should begin when a local authority develops a 'pathway plan' for a young person in preparation for their transition to adulthood, just before their 16th birthday. The 'When I am Ready' arrangement will begin on the young person's 18th birthday.

The 'When I am Ready' arrangement extends until:

- the young person first leaves the 'When I am Ready' arrangement
- the young person reaches their 21st birthday (provided that they have been continuously living in the arrangement since their 18th birthday)
- the young person completes their agreed programme of education or training after their 21st birthday (provided they have been continuously living in the arrangement since their 18th birthday).

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Changing status

Once a young person in a foster placement turns 18, the legal basis on which they continue to live in their former foster care home changes, as they become an 'excluded licensee'. This means, in effect, that they are lodging in the home and the 'When I am Ready' carer technically becomes their landlord. As an excluded licensee, the young person can be asked to leave the property by the 'When I am Ready' carer, who must give 'reasonable notice'. The financial arrangements between the young person and the 'When I am Ready' carer will also be different.

The change in legal status should not mean that the young person is treated differently than they were when they were a fostered child. The over-riding principle is that it continues to be the young person's home and that he or she remains a member of the family.

The change from being a foster child to an adult member of the household, and from being a foster carer to a 'When I am Ready' carer, should be carefully and sensitively planned. Both the young person and the carers need to understand the nature of the new arrangement, and care should be taken that the positive aspects of being in foster care are not diminished by the new legal and financial arrangements and terminology.

Developing 'When I am Ready' policies

Local authorities should develop 'When I am Ready' policies and procedures that provide foster / 'When I am Ready' carers and 'looked after' children and young people, with information and guidance relating to all aspects of the 'When I am Ready' scheme. The policy should cover the following areas:

- a description of the criteria for continuing a fostering placement as a 'When I am Ready' arrangement once the young person reaches 18, in line with this Code
- how the policy and procedures link to the pathway assessment and planning process, and the roles and responsibilities of the various professionals involved
- the information to be provided to children and young people in foster placements and 'When I am Ready' arrangements, and to foster / 'When I am Ready' carers
- how the 'When I am Ready' arrangement will impact upon the allowances provided by the local authority, and whether other funding (for example, Housing Benefit and funding for housing-related support) will contribute to meeting some of the costs

DRAFT

- whether additional allowances, provided when the young person was a foster child to ensure they were embedded in the family, will continue
- any financial contributions by young people from their wages, salary, benefits or education allowances
- how the Income Tax, National Insurance and welfare benefits situation of carers may be affected by 'When I am Ready' arrangements
- insurance issues, including liability insurance and household insurance
- the impact on foster carers' allowances and their terms of approval, including the numbers they are approved to care for, and whether this includes the 'When I am Ready' young person
- safeguarding arrangements, including Disclosure and Barring Service checks on young people reaching 18 where there are fostered children living in the household
- training and supervision of 'When I am Ready' carers
- arrangements for terminating a 'When I am Ready' arrangement and supporting a young person to find suitable accommodation
- how the scheme will be monitored and evaluated in terms of its intended outcomes.

In addition, local authorities must ensure that 'When I am Ready' arrangements are incorporated appropriately within their procedures for recruiting, approving and training foster carers.

Alongside the development of 'When I am Ready' policies and procedures, local authorities should also consider how they can best build capacity and expertise to deliver a local 'When I am Ready' scheme successfully. This will be particularly important in dealing with the financial elements of the scheme, given the complexity of the benefit and tax considerations involved, which will be different in each case depending on individual needs and circumstances. Local authorities may wish to consider appointing a dedicated 'When I am Ready' officer, to undertake the practical elements of 'When I am Ready' arrangements, including the negotiation of allowances and maximising the income of the young person and their carer. As well as developing knowledge and expertise, this would help ensure consistency and transparency in delivering the scheme.

It is recommended that local authorities' 'When I am Ready' policies and procedures are approved by their corporate parenting panels before implementation. This will ensure the 'buy in' of all elements of the corporate parent, including education and health. Corporate parenting panels will also have a role to play in monitoring and reviewing the effectiveness of local 'When I am Ready' schemes.

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Regulatory framework and safeguarding

When setting up 'When I am Ready' arrangements, local authorities must ensure that their safeguarding procedures are updated to cover these arrangements, so that all children and young people living in the household are safeguarded from harm and abuse.

- **Where foster children are living in the 'When I am Ready' household**

Where a young person reaches the age of 18 and there are other fostered children living in the household, the 'When I am Ready' carer will continue to be an approved foster carer and all aspects of the legislation relating to fostering will continue to apply and govern the regulation of the whole household. Whilst the fostering legislation will primarily apply to the placements of the fostered/looked after children, it does ensure a system of approval, checking and supervision is applied to the whole household.

The major change will be that the former foster child becomes an adult member of the household, and as such will require:

- a Disclosure and Barring Service (DBS) check
- a risk assessment if the DBS check highlights a 'trace' (potential risk).

The process will need to have commenced in sufficient time to ensure that the check and any risk assessment are completed by the young person's 18th birthday.

The foster carer will also need to be returned to the fostering panel due to a change of circumstances – i.e. that one of the fostered children has turned 18 and is now living as an adult member of the household in a 'When I am Ready' arrangement. The fostering panel will need to consider the impact of the 'When I am Ready' arrangement on the foster carer's terms of approval, including the numbers approved for and whether this includes the 'When I am Ready' young person.

- **Where no foster children are living in the 'When I am Ready' household**

When a young person turns 18, and there are no other foster children in the household, the legislation relating to fostering will no longer apply. Where it is clear that the 'When I am Ready' carer will not be fostering any further children, it may be appropriate to terminate their approval as a foster carer.

DRAFT

Where it is possible that they may foster again in the future, it may be inappropriate to terminate their approval, given the length of time that re-approval would take, and the local authority will need to ensure that they do what is necessary under the fostering regulations to keep the approval open.

Monitoring and review

The local authority's 'When I am Ready' policy should include arrangements for monitoring and reviewing 'When I am Ready' arrangements. This should include:

- a system for reviewing and approving the 'When I am Ready' arrangement and the carer/s to ensure that the arrangement complies with local authority expectations and the intended outcomes
- regular supervision and support, from the local authority's fostering / 'When I am Ready' social work team, particularly during the first year of the arrangement
- safeguarding and risk assessment checks on household members and regular visitors, as appropriate
- arrangements for ensuring that health and safety requirements are met (as a minimum this should comply with landlord and licensee/tenant requirements)
- clear guidance for the fostering / 'When I am Ready' carers, including opportunities to attend appropriate training or access support.

Preparing for a 'When I am Ready' arrangement

The Act places a clear duty on local authorities to ascertain the wishes of a young person and their foster carers when the local authority carries out a pathway assessment just before the young person's 16th birthday. Where the young person and their foster carers express a desire to enter into a 'When I am Ready' arrangement, the local authority must include this in the young person's pathway plan. Regulations require local authorities to provide information and advice to the young people and their foster carers so that they can make an informed decision about entering a 'When I am Ready' arrangement. This includes information about the financial implications for both parties of entering into an arrangement. Looked after children also have a statutory entitlement to advocacy services.

A key factor influencing both the foster carer's decision to extend the placement and the young person's willingness to enter into a 'When I am Ready' arrangement, will be the quality of the relationships and the extent to which secure attachments have been established. Effective care planning,

DRAFT

matching and quality of support to carers and young people will play a major part in achieving a successful outcome.

Regulations specify that local authorities must provide information about 'When I am Ready' to:

- a looked after child who is in a foster placement, when preparing or reviewing their pathway plan
- a young person who is in a 'When I am Ready' arrangement
- a looked after child who is in a residential children's home, when preparing or reviewing their pathway plan
- a foster carer who is looking after a fostered child, when that child's pathway plan is being prepared or reviewed
- any former foster carers
- a 'When I am Ready' carer
- a parent or other person who had parental responsibility for a looked after child before that child was placed in foster care (unless to so would put the child or young person at risk of serious harm)
- the local authority representative for the looked after child
- the child's local authority representative, independent visitor or Independent Reviewing Officer
- any other person whom the local authority considers it needs to provide information to in order to promote and safeguard the child or young person's best interests and well-being.

The information that must be provided includes:

- information about a local authority's duty under section 108, the relevant parts of this code of practice, and any good practice guidance commissioned by the Welsh Government
- a copy of the local authority's 'When I am Ready' policy
- information for the looked after child on eligibility and how to access a 'When I am Ready' arrangement, to enable the child to make an informed decision
- information for the looked after child on the financial implications of entering into a 'When I am Ready' arrangement, to enable the child to make an informed decision
- information for the looked after child on alternatives to 'When I am Ready' arrangements (such as supported lodgings), so that the child can make an informed choice
- information for the looked after child on the financial implications of entering into a 'When I am Ready' arrangement

DRAFT

- information for the foster carer(s) on the financial and other implications of entering into a 'When I am Ready' arrangement, to enable the foster carer(s) to make an informed decision
- information about the support available from the local authority to a young person and their carer(s) during the course of a 'When I am Ready' arrangement
- information on other sources of information, advice and support, including advocacy services and peer support groups
- updates on any changes to the policy or practice around 'When I am Ready' which occur during the period covered by the pathway plan or when the 'When I am Ready' arrangement is in force.

The information provided to a child or young person must be appropriate to their age and level of understanding, and appropriate to their needs and circumstances.

Young people in residential accommodation must be informed about 'When I am Ready' as part of the pathway assessment and planning process, in the same way as other looked after children in foster care. Although a young person cannot continue to live in a children's home beyond the age of 18, if the young person expresses a preference to move into a 'When I am Ready' arrangement, and the local authority considers this to be in their best interests, then the local authority may wish to consider moving the young person into a foster placement which could become sufficiently stable before their 18th birthday, in anticipation of this becoming a 'When I am Ready' arrangement.

A local authority should also consider moving a young person's placement where:

- a young person would like to remain in a stable setting but the foster placement is in danger of breaking down before the young person's 18th birthday
- a young person would like to remain in a stable setting but not with their current foster carers
- a young person would like to remain in a stable setting but their current foster carers do not wish to enter into a 'When I am Ready' arrangement.

Local authorities should facilitate 'When I am Ready' arrangements wherever possible.

DRAFT

There should be a clear expectation that any young person entering into a 'When I am Ready' arrangement will commit to undertake skills development to prepare for their future. If not engaged in full or part-time education, training or employment, the young person should be actively seeking to be engaged, and may be involved in voluntary work or a work preparation programme. This should form part of the discussions with a young person during the pathway planning process, and when drawing up a Living Together Arrangement. If it becomes clear that the young person is not fulfilling this expectation, then the local authority should consider supporting the young person to move on from the 'When I am Ready' arrangement.

Where a young person in a 'When I am Ready' arrangement goes away to university or college, they should be able to return to the carer's home during the vacations. If the intention is that the young person returns home during the holidays, then the 'When I am Ready' arrangement should be deemed to remain in force – i.e. going away to university or college during term time will not terminate the arrangement. It should be remembered that where the 'When I am Ready' arrangement covers vacation stays only, and there are foster children living in the household, the young person in a 'When I am Ready' arrangement is an adult member of the household and the appropriate safeguarding procedures need to be put in place.

Alternative arrangements

Although 'When I am Ready' arrangements must always be considered and will be the preferred option for the majority of care leavers who have been in foster care, this will not always be the most appropriate option. For some, independent living, supported lodgings, a return to living with family members, or other alternatives, will be preferred. The primary consideration must always be how best to achieve the independent living and other outcomes set out in a care leaver's pathway plan.

'When I am Ready' is aimed at care leavers who require an extended period with their former foster carers in order to prepare themselves for independent living and/or to complete their education or training. The arrangements are transitional, and the expectation is that the young person will move on to more independent living arrangements. However, there are young people whose care and support needs are complex and ongoing, and for whom moving on to independent living will not be an appropriate longer-term option. Children and adult social services must work together, as part of the pathway assessment and planning process, to find the most appropriate longer-term arrangement for these young people. For some this will be an adult (shared lives) placement. In some cases the young person and their foster carers

DRAFT

may wish to enter into a longer-term arrangement, and it may be more appropriate to convert the foster placement into an adult placement / shared lives arrangement when the young person turns 18. Local authorities must not use 'When I am Ready' as an interim arrangement pending a proper assessment and planned move into another more suitable type of arrangement.

Supported lodgings may be a suitable option for some care leavers, instead of, or following on from, a 'When I am Ready' arrangement (for example, where a young person in full-time education needs vacation accommodation). Supported lodgings is primarily a housing scheme for vulnerable young people. It does not operate on the familial model promoted by 'When I am Ready', and is governed by a separate statutory scheme. The tax and benefit rules for supported lodgings are also different to those for 'When I am Ready', especially in relation to qualifying care relief for the carer / supported lodgings provider. The relative merits of 'When I am Ready' and supported lodgings should be discussed with the young person and their foster carers as part of the pathway assessment and planning process. If the young person wishes to remain with their foster carer beyond the age of 18, this will almost always be under a 'When I am Ready' arrangement.

Living Together Agreements

As the young person reaches the age of 18, the local authority should make arrangements to convert his or her care and support plan into a 'Living Together Agreement'. The Living Together Agreement should cover broadly the same range of issues as set out in the care and support in respect of the foster placement, with a clear focus on the outcomes the young person wishes to achieve as identified in their pathway plan, the people who are best placed to support the young person in achieving these, and how they will do this. While there will continue to be an expectation that the young person will behave in a manner which is compatible with the norms of the household, there will be an increasing emphasis on informing the carer rather than seeking their permission.

The local authority should arrange a Living Together Agreement meeting six months before the young person is 18. The young person, foster carers, Personal Advisers, and the young person's social worker and fostering supervising social worker should all attend the meeting. The agreement should set out the expectation of all parties, and clarify roles and responsibilities. Care should be taken to ensure that the plan is written in a way that is clear and accessible to everyone.

DRAFT

The Living Together Agreement should cover:

- the outcomes the young person wishes to achieve
- details of the support which will be provided by the 'When I am Ready' carer to help the young person achieve the defined outcomes
- details of the support which will be provided by others in helping the young person achieve the defined outcomes
- arrangements to promote the young person's health and well-being, including the contribution of the 'When I am Ready' carer to meeting any mental and emotional health needs
- the young person's contribution to achieving the defined outcomes
- education, training, employment, volunteering and/or work preparation activities
- arrangements for when friends and partners stay over, or times when the young person stays away
- issues relating to foster or other children living in the household, including safeguarding
- moving on plans.

The approach to drawing up a Living Together Agreement must be sensitive to the feelings of those involved and proportionate to their particular circumstances. The degree of detail which is required in each case will depend upon the nature of the existing relationship between the young person and their carers, and how much this might change.

The Living Together Agreement should be monitored and evaluated, and revised as necessary, during the six monthly pathway planning reviews, and should be used as a supervision tool by the supervising social worker.

Terminating a 'When I am Ready' arrangement

'When I am Ready' arrangements may be brought to an end by the young person or the carer, or by the local authority deciding to withdraw financial and other support for it if it considers the arrangement to be no longer consistent with the young person's well-being. The circumstances in which an arrangement may end, and the implications for both parties should this come about, should be explored during the Living Together Agreement meeting. It may be appropriate to include requirements to give notice in the Living Together Agreement.

A 'When I am Ready' arrangement will come to an end when the young person first moves out of the carer's home (excepting when the young person leaves home temporarily for the university term and returns during the

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vacation). However, there will be situations where a young person moves on from the 'When I am Ready' arrangement into more independent living, but then wishes to move back in with their carer (for example, if they have found living alone harder than anticipated). Although the arrangement will no longer be a 'When I am Ready' arrangement, the local authority will still have statutory duties towards the care leaver and it may still be appropriate for them to support the arrangement on another basis.

As an excluded licensee, the young person can be asked to leave the property by the 'When I am Ready' carer, who must give 'reasonable notice'. In extreme circumstances, where an arrangement suddenly and irreparably breaks down, it may be considered reasonable for the 'When I am Ready' carer to give very short notice and ask the young person to leave on the same day (although this will be extremely rare, and a local authority would continue to have a duty of care if this did happen).

Financial Arrangements

'When I am Ready' carers are no longer eligible for fostering allowances and fees in respect of any young people over the age of 18 who are living with them (although they may still be receiving allowances in respect of children they are fostering). Instead, they will receive a 'When I am Ready' allowance. Local authorities will set their own rates for 'When I am Ready' allowances (as they do for fostering allowances). The allowance should cover all reasonable costs of supporting the care leaver to remain living with their carer. Payments made by local authorities to 'When I am Ready' carers will be made in accordance with provision made under section 110(2) and (4) of the Act.

As the aim of the 'When I am Ready' scheme is to provide continuity and stability, it is recommended that the financial support given to 'When I am Ready' carers should amount to the same as the National Minimum Allowances paid to foster carers.

From the age of 18 the young person may be eligible for certain means-tested benefits (such as housing benefit), be in receipt of an education bursary, or have an income from full or part-time employment. This means that they will be able to contribute to their board and lodging, as well as meeting their own personal expenses such as clothing, travel or holiday money. This encourages the young person to develop their budgeting skills, and assists with the preparation for independent living. The young person's contribution will need to be calculated on a case-by-case basis, especially for young people in employment with fluctuating or 'zero' hours contracts.

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The allowance paid to the 'When I am Ready' carer should reflect any contribution made by the young person from these sources of income, and the exact amount paid to any individual carer will therefore depend upon their particular needs and circumstances. In calculating this amount, careful consideration should be given to the impact of the 'When I am Ready' arrangement on the family's financial position.

The allowance paid to a 'When I am Ready' carer by the local authority will therefore be exclusively for the practical and emotional package of support that is being provided to the young person by the carer. Unlike the fostering allowance previously paid to the carer, it will not include any element to be given to or spent on the young person such as personal items, clothing, travel or holiday allowances, as these will be replaced by the young person's earnings or benefit entitlement from the age of 18.

Local authorities should have a clear policy on the rates they pay 'When I am Ready' carers and how this is made up, including a transparent and fair process for assessing the young person's financial contribution to the arrangement.

Where a 'When I am Ready' arrangement is proposed with an Independent Fostering Agency foster carer, early discussion with their agency will be required to determine agreement to the arrangement and the level of allowance to be paid.

For some foster carers, the loss of income from fostering fees may be a major obstacle to setting up a 'When I am Ready' arrangement, especially if fostering is their main source of income. Local authorities may wish to consider paying an additional amount in these circumstances to ensure that the 'When I am Ready' arrangement can go ahead.

Local authorities' policies should also need to explain how the financial arrangements will be affected when a young person is temporarily absent from home – for example, at university or on holiday. Although the 'When I am Ready' arrangement is still deemed to be in force, the carer may receive a reduced allowance whilst the young person is away from home.

Local authorities may wish to consider the advantages of housing benefit payments being paid directly to the local authority's children's services department, so that the allowance paid to the carer remains constant.

In summary, 'When I am Ready' carers will need to know:

- the amount to be paid

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- when payments will cease
- any arrangements for review of the level of payment
- what the payment is intended to cover, and whether it includes a fee element as well as an allowance
- whether additional discretionary payments can be made
- if the young person is expected to make any contributions and whether this will affect the level of payment
- whether the carer's allowance includes any payments which they are expected to make to the young person
- what happens if the young person is temporarily away – for example, at university or on Holiday
- what happens if the young person temporarily loses their entitlement to benefits through the imposition of a sanction
- how payments will affect benefit entitlement and tax liabilities, and where to get advice.

Insurance

Local authorities should ensure that 'When I am Ready' carers are aware of the practical considerations regarding insurance cover. 'When I am Ready' carers should ensure that they inform their mortgage provider or landlord, and their building and contents insurance provider, that they will continue to be supporting a former foster child as a young adult under a 'When I am Ready' arrangement. Failure to do so may cause a breach of mortgage/tenancy requirements and may result in insurance cover being void due to a 'failure to disclose material facts'.

'When I am Ready' carers who transport young people are required to apply the same level of standards and care as they did when they were transporting a foster child – i.e. comprehensive business insurance, a valid MOT, a valid Road Vehicle License and a roadworthy vehicle.

'When I am Ready' carers should be provided with information about liability insurance cover in situations where young people may make an allegation against a foster child in placement, or against their 'When I am Ready' carer/s, or an allegation is made against the young person. Foster carers / 'When I am Ready' carers should clarify the arrangements for extending cover after a young person's 18th birthday.

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Chapter 7: Secure Accommodation

Children accommodated in secure children's homes

Secure children's homes have an important role to play amongst the range of residential services and facilities provided by local authorities, and can sometimes be the most appropriate or the only way of responding to a child's needs. While the decision to place a child in secure accommodation must never be taken lightly, a secure placement can be a positive intervention for the child.

Restricting the liberty of a child is a serious step which should only be taken where it is necessary and where other alternatives have been considered. The decision to place a child in a secure children's home must be made on the basis that it is the best option to meet the particular needs of the child, and the placement should be part of the local authority's overall plan for the child's welfare. Secure placements, once made, should only continue for as long as they remain appropriate to meet the needs of the child.

A looked after child may be placed in a secure children's home by a local authority only on certain specified grounds and (subject to a maximum 72 hour period pre-application) only after obtaining a secure accommodation order from the courts. Where a child is less than 13 years of age, approval is also required from the Welsh Ministers. These placements are made under **section 119** of the Act. They were previously known as 'welfare placements'.

Children and young people may also be placed in secure children's homes by the youth justice system, if they are subject to a Detention Training Order (Crime and Disorder Act 1998) or if they receive a custodial sentence (under The Powers of the Criminal Courts (Sentencing) Act 2000, sections 90-92). Children who are refused bail by the court and are remanded to secure children's homes will be treated as looked after (see section 104 of the Legal Aid Sentencing and Punishment of Offenders Act 2012).

The key principles underpinning section 119 of the Act and The Children (Secure Accommodation) (Wales) Regulations 2015 are set out in Article 37(b) of the United Nations Convention on the Rights of the Child, which states that:

No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity

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with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.

This chapter should be read in conjunction with the code of practice on Part 11 of the Act, which covers the provision of care and support for those children and young people who have been convicted of an offence and who are serving their sentence within the secure estate.

Placements under section 119

A looked after child can only be placed or kept in secure accommodation if it appears **either** that:

- the child has a history of absconding and is likely to abscond from any other description of accommodation, and is likely to suffer significant harm if they do; **or**
- the child is likely to injure him/herself or other people if kept in any other description of accommodation.

It is unlawful to restrict the liberty of a child in a secure children's home unless one of the above criteria is met, no matter how short the period of restriction. 72 hours is the maximum period that a looked after child can be kept in secure accommodation without the authority of the court. In these circumstances a local authority must clearly record the reasons why it believes the grounds under section 119 of the Act are met, the purpose of the placement, and the reasons why it considers that the placement is necessary. A copy of this record must be provided to the child and other relevant persons.

Only accommodation in a children's home which has been approved for use as secure accommodation by the Welsh Ministers shall be used for placements for looked after under section 119.

The framework governing such placements has been put in place to meet the following objectives:

- to protect children and young people from unnecessary and inappropriate placement in secure children's homes
- to ensure that administrative decisions taken by local authorities or other agencies are scrutinised and endorsed by the court
- to ensure that any placements are only for so long as is necessary and appropriate.

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Decisions to place a child in secure accommodation should always be authorised by a nominated senior manager of the local authority's children's services department.

When an application is made to the court for a secure accommodation order, it is the responsibility of that court to safeguard the rights of the child by satisfying itself that the criteria for keeping a child in secure accommodation are met. The court is required to make an order for such maximum duration as it considers appropriate. If, after making an order for secure accommodation, the criteria for keeping the child in secure accommodation cease to apply, then the local authority must plan and implement a change of placement to an open setting as soon as possible following a statutory review of their care plan.

Placements of children under age 13

Local authorities must obtain the approval of the Welsh Ministers before placing a child under the age of 13 in a secure children's home. The Welsh Ministers may make the approval subject to such terms and conditions as they see fit. Approval is not required for the placement of children and young people aged 13 and over, but local authorities must still also obtain the necessary court orders. If the child is still under the age of 13 when the period of approval ends, and the local authority wishes to extend the placement, the local authority must seek further approval from the Welsh Ministers.

The process for seeking approval from the Welsh Ministers is set out below.

Step 1: Contact the Welsh Government

Calls should be made before 5pm, and preferably as early in the day as possible. Early notification of a possible application is helpful, even if a final placement decision has not yet been made. If a local authority needs to make an emergency placement after 5pm they should phone the Welsh Government out of hours number.

Step 2: Provide initial details by telephone

The local authority will be asked to provide:

- the name and date of birth of the child concerned
- a verbal summary of the reasons for the secure placement
- confirmation of whether a bed in a secure children's home has been identified and is available

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- confirmation of whether the child is currently with the local authority or missing from care (having absconded)
- details of when the local authority is intending to go to court to seek a secure order
- details of what alternatives to a placement in a secure children's home have been considered and why these were rejected.

Step 3: Submit written paperwork by e-mail

The local authority will be asked to provide:

- a full written history/chronology of the child
- a contemporary care plan that covers the period of the secure placement, including the aims and objectives of the placement and (where possible) the exit strategy from secure accommodation
- agreement in writing at Assistant Director / Head of Service level or above, seeking the approval of the Welsh Ministers.

If the authority is seeking a secure placement out of hours it may not be possible to submit the relevant paperwork. Greater detail will be taken during the initial telephone discussion and the local authority's representative will be required to provide verbal assurance that the Assistant Director or above has agreed to the secure placement.

Step 4: Consideration of the application

The Welsh Government official will discuss the information provided with the Care and Social Services Inspectorate Wales (CSSIW). It is possible that a representative of CSSIW will contact the authority to discuss the case further.

Step 5: Notification of the decision

Where an application is approved, a letter and certificate will be issued to the local authority on the same day via email. The signed, hard copy of the documents will be posted to the Assistant Director or equivalent that supported the application on behalf of the local authority.

Where applications are made out of hours, the approval letter and certificate will not be issued until the next working day. Verbal agreement will be given over the telephone.

Maximum period in secure accommodation without court authority

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The Regulations place a limit on the maximum period that a child placed under section 119 may be kept in secure accommodation without the authority of the court. This maximum period is 72 hours, either consecutively or in aggregate, in any period of 28 consecutive days.

The 72 hour maximum period should allow sufficient time for the local authority to prepare an application, have it lodged with the court and then served on all those who are entitled to service so as to proceed with an effective hearing. It is important to note that the 72 hour period is set to allow adequate time to ensure that all the steps are in place for a court to be able to fairly consider the merits of the application. It allows all the parties involved, including the child, their parents and independent visitors (where appropriate), to be notified about the intention to seek an order authorising placement in secure accommodation, to seek legal advice and representation. In particular, it gives the child, their parents and their legal representatives sufficient time to understand the case being put by the local authority and to prepare their own case, so as to be in a position to challenge any evidence upon which the local authority relies.

It should also be stressed that 72 hours is the maximum period, and that local authorities should always make applications to the courts at the earliest possible time, and request hearings before the court at the earliest time available, which also affords those representing the child and the child's parents adequate time to consider the reasons for the local authority's application and the grounds on which it is based.

There are special provisions where the 72 hour period expires late on a Saturday, or on a Sunday or public holiday. These are that, where a child

- is in secure accommodation at any time between 12 midday on the day before and 12 midday on the day after a public holiday or a Sunday
- the child had, in the 27 days before the day on which the latest placement in secure accommodation began, already been placed in secure accommodation for an aggregate of more than 48 hours, and
- during that time the maximum period of 72 hours would otherwise expire

the maximum period is extended until 12 midday on the first day which is not a public holiday or a Sunday.

This limited extension of the 72 hour rule is intended to cater for emergencies only. Local authorities must do everything possible to bring forward applications in those cases where the 72 hour period would expire on a day when courts do not normally sit.

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Where a court has authorised a child to be kept in secure accommodation, any time during which that child was kept in such accommodation before the court's authorisation was given shall be disregarded for the purposes of calculating the maximum period of any subsequent occasion in which the child is placed in such accommodation after the period authorised by the court has expired. The practical effect of this regulation is that the 28 day period will restart on the expiry of any court order. This is intended to meet the case of a child who may need to be readmitted to secure accommodation as an emergency, and where:

- during the previous 28 days the child has had his liberty restricted for up to 72 hours, and
- a court has authorised such a placement for a period of less than 28 days.

Applications to court

For looked after children, applications to court under section 119 of the Act may only be made by the local authority which is looking after the child. This includes local authorities in England who decide to place a looked after child in secure accommodation in Wales.

Local authorities will note that applications to place a child in secure accommodation in Wales will be made under section 119 of the Act. However, where the intention is to place a child in a children's home providing secure accommodation in England, the application will need to be made to the court under section 25 of the Children Act 1989. Courts in Wales can hear applications under section 119 of the Act or section 25 of the Children Act 1989.

Where a local authority intends to make an application to a court, it must, as far as is reasonably practicable, notify as soon as possible:

- the child's parent or any person with parental responsibility
- the child's independent visitor
- any other person the local authority considers should be informed.

This applies both to court applications after the first 72 hour period and to renewed applications to keep a child in secure accommodation beyond the initial period authorised by a court.

A local authority should take care to prepare children adequately for the court hearing, bearing in mind the age and understanding of the child. The child's entitlement to funding for legal proceedings should be carefully explained to the child and the child's parents. Staff may require some guidance on the

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preparation of reports and on the need to ensure that the court is provided with precise evidence of the way in which it is considered that the child meets the statutory criteria for placing or keeping them in secure accommodation.

Under section 119(6) of the Act, a court is unable to exercise its powers to authorise a period of secure accommodation under section 119 if the child is not legally represented in court unless the child, having been informed of his right to apply for representation funded by the Legal Services Commission as part of the Community Legal Service or Criminal Defence Service and having had an opportunity to do so, has refused or failed to apply (section 25(6)). Children should be encouraged to appoint a legal representative in such proceedings and given every assistance to make such arrangements. The provision of funding for such proceedings is contained in 'The Funding Code' made under the Access to Justice Act 1999. The Funding Code is the set of rules used to determine which cases will be funded through civil legal aid.

Proceedings under section 119 are specified proceedings for the purposes of section 41 (6) of the 1989 Act. The court is therefore required to appoint an officer of the service (a CAF/CASS Cymru officer, known as a Children's Guardian) for the child unless it is of the opinion that it is unnecessary to do so in order to safeguard the child's interests. The officer shall be appointed according to the rules of the court and be under a duty to safeguard the interests of the child in the manner prescribed in such rules. The officer will appoint a solicitor for the child. This is an important provision designed to ensure that the well-being of the child being provided with secure accommodation is protected adequately.

Duration of secure accommodation orders

The maximum initial period a court may authorise a looked after child to be kept in secure accommodation is three months.

Where the local authority looking after the child (or other authority or person as appropriate) believes the child's placement in secure accommodation should continue beyond the period specified in the initial court order, a further application must be made to the court. The regulations enable a court to authorise a child to be kept in secure accommodation for a further period of up to six months at any one time.

The maximum period for which a court may authorise a child who has been remanded to local authority accommodation under section 91(3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 to be kept in secure

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accommodation is the period of the remand. This applies whether the period is the initial remand period or a further period.

Where the court adjourns consideration of an application, it may make an interim order authorising the child to be kept in secure accommodation during the period of the adjournment (**section 119(5)** of the Act). If the court adjourns consideration of an application and does not make an interim order, the child may not be placed in secure accommodation during the period of the adjournment unless their circumstances subsequently change, when the normal procedures will apply.

Duty to give information of placement

When a child is placed in a secure children's home which is provided by a person other than the local authority which is looking after the child, the registered person in the children's home must inform the child's own local authority of the placement within 12 hours of the placement beginning. The registered person will usually be the registered manager or registered provider of the children's home.

The local authority looking after the child must then confirm to the registered person:

- its authorisation for the child to be held in secure accommodation
- the period of authorisation, and
- details of any order made by a court authorising the placement.

Notifications should preferably be made by telephone as soon as possible after the placement begins, and it is essential that secure accommodation providers are aware of how to contact local authorities out of normal office hours (for example, weekends and public holidays). Where notification is made by email, then the provider must make sure that they receive acknowledgement of this from a senior representative of the local authority within 12 hours.

Review of placements

The regulations require each local authority which decides to place a child in secure accommodation to appoint at least three people to review the decision within one month of the start of the placement. At least one of these should be neither a member nor an officer of the local authority. Further reviews must take place at monthly intervals while the placement continues.

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It should be noted that the responsibility for undertaking the reviews rests solely with the local authority looking after the child and not with the local authority managing the secure children's home, where different.

The regulations require the appointed persons to consider:

- whether the criteria for keeping the child in secure accommodation continue to apply
- whether the placement in the secure children's home continues to be necessary, or
- whether any other description of accommodation would better meet the child's needs.

In doing so they must have regard to the welfare of the child whose case is being reviewed.

In undertaking these reviews, the appointed persons must, as far as is reasonably practicable, ascertain and take into account the wishes and feelings of:

- the child
- any parent of the child
- any other person who has parental responsibility for the child
- any other person who has had the care of the child, whose views the appointed persons consider should be taken into account
- the child's independent visitor where one has been appointed
- the person, organisation or local authority managing the secure accommodation in which the child is placed, if not managed by the local authority looking after the child.

The appointed persons must make a recommendation to the local authority as to whether the placement of the child in secure accommodation should continue. It should be noted that the purpose of these reviews is limited to reviewing the issue of whether or not the conditions for detaining the child in secure accommodation still apply, and whether in the appointed persons' opinion any other description of accommodation would better meet the child's needs. The secure accommodation review is not a substitute for, and does not replace, the statutory review of the child's overall care plan, which must be chaired by the child's Independent Reviewing Officer.

If the review panel concludes that the criteria for restricting the child's liberty no longer applies, or that the placement is no longer necessary or another type of placement would be appropriate, then the local authority must convene a statutory review of the child's care plan, chaired by their Independent Reviewing Officer, to consider developing alternative options for the child and plan any move to an alternative placement.

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All the parties whose views were taken into account should be informed, so far as is reasonably practicable, of the outcome of the secure accommodation review, the reasons for the outcome and what actions, if any, the local authority proposes to take in the light of the review and the recommendation.

Whatever the reason for the placement in secure accommodation, and however long its duration, the local authority must put in place clear plans for when the child leaves secure accommodation, to ensure continuity of care and of education and, where necessary of, any specialist intervention or support when the child leaves the home.

Records

The regulations require each person, organisation or local authority responsible for the management of the secure children's home to keep records which include:

- the name, date of birth and sex of the child
- details of the care order or other statutory provision under which the child is placed in the home
- details of the local authority involved with the placement of the child, and the name of the authorising officer
- the date and time of the start of the placement
- the reason for the placement
- where the child was living before the placement
- the names and relevant details of persons informed under regulations
- details of any court orders made in respect of the child under section 119 of the Act
- reviews undertaken under regulation 9
- the date and time of any periods when the child is locked in their own in any room other than their bedroom during usual bedtime hours, the name of the person authorising this action, the reason for it and the date and time on which the child ceases to be locked in that room
- details of any occasions when the child has been restrained, including the date and time, a brief description of the technique used, the reason for it and the name of the persons authorising and undertaking this action
- the date and time of the child's discharge and their address following discharge from the secure accommodation.

The Welsh Ministers may require copies of these records to be sent to them at any time.

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Appeals

Section 94 of the Children Act 1989 makes provision for appeals to the Court against decisions to authorise, or refusal to authorise, applications for secure accommodation. Where such an appeal is against an authorisation, a child's placement in secure accommodation may continue during consideration of the appeal. Where a court has refused to authorise a placement in secure accommodation, and the local authority looking after the child, or other authority or appropriate person is appealing against that decision, the child must not be detained or placed in secure accommodation during consideration of the appeal.

Children to whom section 119 does not apply

The Regulations specify that section 119 does not apply to a child:

- who is detained under any provision of the Mental Health Act 1983 or in respect of whom an order has been made under section 90 or 91 of the Powers of the Criminal Courts (Sentencing) Act 2000 (detention at Her Majesty's pleasure or for a specified period)
- who is the subject of a Child Assessment Order made under section 43 of the Children Act 1989, and who is kept away from home as a result of that order
- who is aged 16 or 17 and accommodation under section 76 of the Act
- who is remanded to youth detention accommodation and is treated as looked after by virtue of section 104(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

Children detained under the Police and Criminal Evidence Act 1984

The criteria for placing a child in secure accommodation under section 119 of the Act is modified in respect of children aged 12 to 17 who are looked after by a local authority and who are being detained under section 38(6) of the Police and Criminal Evidence Act 1984. This modification means that a child to whom this applies may not be placed or kept in secure accommodation unless it appears any accommodation other than secure accommodation is inappropriate because:

- the child is likely to abscond from such other accommodation, or
- the child is likely to injure themselves or other people if kept in any such other accommodation.

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Children to whom section 119 applies subject to modifications

The Regulations specify other categories of children to whom section 119 applies, in addition to children who are looked after by a Welsh or English local authority. The effect of this regulation is that the criteria set out in section 119 (1)(a) and (b) must be satisfied in the case of these categories of children also. In other words, the regulation extends to these children the same safeguards as for other children covered by section 119, so that no child is placed in accommodation in Wales for the purpose of restricting their liberty without the appropriate safeguards being in place.

These other categories are children (other than those looked after by a Welsh or English local authority) who are placed in secure accommodation in Wales:

- by the following health bodies: Local Health Boards, NHS Trusts
- by local authorities in the exercise of their education functions, or
- who are accommodated in care homes or independent hospitals.

Applications to the court for a secure accommodation order in respect of these children must be made by the health body or other person listed above. In the case of a child accommodated in a care home or independent hospital, applications to the court will be made by the body which provides the establishment in question.

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Chapter 8: Children accommodated in other types of establishment

Sections 120 to 122 of the Act deal with assessments of children who are accommodated within health and education establishments, care homes or independent hospitals. **Section 123** provides for these children to be visited by local authority representatives, and **section 124** with the provision of services to them.

Children accommodated by health authorities or education authorities

Section 120 requires any Local Health Board or health authority which is providing, or intending to provide, a child with accommodation in Wales for a consecutive period of at least three months, to notify the appropriate officer of the 'responsible authority' that it is accommodating the child and when it ceases to accommodate the child. The same requirement is placed any local authority which accommodates a child in Wales in the exercise of its education functions.

The 'responsible authority' is defined as the local authority in Wales, or the local authority in England, where it appears the child was ordinarily resident immediately before being accommodated. If it appears that the child was not ordinarily resident in any local authority area, then the responsible authority is the authority in whose area the accommodation is situated.

The appropriate officer of the local authority which has to be notified is either the director of social services (in a Welsh local authority) or the director of children's services (in an English local authority).

When the appropriate officer has been notified that a child is being provided with accommodation of this kind, the responsible authority must:

- assess the child under section 21 of the Act (duty to assess the needs of a child for care and support), and
- consider the extent to which (if at all) it should exercise any of its other functions under the Act or under the Children Act 1989, with respect to that child.

The duty to carry out a section 21 assessment does not, however, apply in relation to a child who is looked after by a local authority in Wales, England or Scotland, or by a Health and Social Care Trust in Northern Ireland.

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Children accommodated in care homes and independent hospitals

Section 121 makes similar provision for children who are accommodated in care homes and independent hospitals in Wales. It specifies that where a child is provided with such accommodation for a consecutive period of at least three months, or where it is intended to do so, the person 'carrying on' the care home or hospital has to notify the appropriate officer of the local authority within whose area the establishment is located that it is accommodating the child and when it ceases to accommodate the child. This will usually be the manager of the care home or hospital in question. The appropriate officer who has to be notified is the director of social services. (It should be noted that, unlike section 120, the concept of ordinary residence does not apply.)

Where such a notification has been made, the responsible authority must carry out a section 21 assessment and consider the extent to which it should exercise any of its other functions under the Act or the Children Act 1989, with respect to that child. This does not apply where the child is looked after by a local authority in Wales, England or Scotland, or by a Health and Social Care Trust in Northern Ireland.

If a person carrying on a care home or independent hospital fails, without reasonable excuse, to comply with this section, that person will be guilty of an offence and is liable on summary conviction to a fine.

The section also provides for a person from the local authority in whose area the care home or hospital is located to enter the home or hospital to establish whether these requirements have been complied with. The person exercising the power of entry must, upon request, produce some duly authenticated document showing authority to do so; and any person who intentionally obstructs such a person is guilty of an offence and liable to a fine.

Visitors for children notified under section 120 or 121

Section 122 requires a local authority which has been notified that a child has been accommodated under section 120 or 121, to arrange for that child to be visited by a representative of the local authority. The representative has a duty to provide advice and assistance to the local authority on the performance of its duties under the Act in relation to that child. The duty of the local authority to visit the child continues until the local authority has been notified by the accommodating authority or provider that it has ceased to accommodate the child.

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When choosing a representative, the local authority must be satisfied that the person has the necessary skills and experience to perform the functions of a representative.

An initial visit must take place within one week of notification, and subsequently at six week intervals during the first year and at intervals of not more than three months in every subsequent year of the child being accommodated. The local authority must ensure that the social worker visits the child outside these statutory minimum intervals when reasonably requested to do so by the child, the child's carer or the person responsible for the child's living arrangements.

Visits must be conducted in the same way as visits to looked after children, as set out in Chapter 3 of this code. The reporting requirements are also the same. The representatives should also assess during their visits whether the child needs any additional advice, support or assistance.

Services for children notified under section 120 or 121

Local authorities are required under **section 123** of the Act to provide such services as it considers appropriate for children of whom it receives notification under section 120 or 121. The services provided under this section must be provided with a view to promoting contact between the child and the child's family, and may include anything the authority may provide or arrange under Part 4 of the Act (meeting care and support needs).