Children Looked After System Framework

The purpose of this section is to provide information to supported lodgings providers and semi-independent supported accommodation providers regarding the children looked after system.

The majority of the Children Act 1989 Guidance and Regulations were updated in 2010 or 2011 and came into effect in April 2011.

The Children Act 1989 is set out into several volumes of Guidance as follows:

Volume 1: Court Orders
Volume 2: Care Planning, Placement and Case Review Regulations and Guidance 2010
Volume 3: Planning Transition to Adulthood for Care Leavers – Guidance 2010 (including; The Care Leavers (England) Regulations 2010
Volume 4: Fostering Services – Regulations 2011
Fostering - National Minimum Standards 2011
Volume 5: Children’s Homes
Children’s Homes - National Minimum Standards 2011

Short Breaks: Statutory guidance on how to safeguard and promote the welfare of disabled children using short breaks
Children in Custody: Local Authority Responsibilities towards Former Looked After Children in Custody 2011

The Care Standards Act 2000 also provides part of the regulatory framework for children’s homes and foster care placements

“Looked After” is the legal term for children who are in ‘Care’, sometimes termed ‘Public Care’.

Children are looked after:

1. As a result of being subject to a Section 31 Care Order, the Children Act 1989. The Care Order is made by the family court and results in parental responsibility being shared between those with parental responsibility and the local authority;
2. As a result of being ‘Accommodated’ under Section 20, the Children Act 1989. Being ‘Accommodated’ means that parental responsibility remains with parents. Being ‘Accommodated’ is often termed voluntary care and is deemed a ‘voluntary’ agreement between the child’s parents and the local authority.

All children who become looked after should be allocated to a qualified social worker who is responsible for planning the day to day care of the child.
All children looked after should be allocated to a Independent Reviewing Officer (IRO) who is responsible for reviewing the care arrangements for the child and ensuring decisions stemming from the care plan and subsequent reviews are implemented.

The primary task of the IRO is to ensure that the Care Plan for the child fully reflects the child’s needs and that the actions and outcomes set out in the Care 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 a responsible and conscientious parent would act.

All children looked after should have a Care Plan which is the overarching document setting out the comprehensive needs of the child and how these needs will be met.

Where the local authority makes an application to the family court for a Care Order, a Care Plan must be in place prior to the child being made subject to a Care Order.

Where a child becomes ‘Accommodated’ it is expected that the Care Plan is developed in advance of the child becoming ‘Accommodated’, Where this is not possible the Care Plan should be developed within 10 days of the first placement being made.

All children looked after should also have a Placement Plan which should be drawn up before the child is placed. Where this is not possible, the Placement Plan should be drawn up within 5 working days of a child being placed.

The Placement Plan is intended to provide clarity for the child and the child’s carer about how the day to day parenting tasks will be shared between the child’s carer and the local authority, including clarity about the financial arrangements for the child’s upbringing.

The overarching Care Plan encompasses the:

- Placement Plan
- Personal Education Plan
- Health Assessment and Health Action Plan

Care planning is identified as a core element of the 1) Assessment, 2) Planning, 3) Intervention, 4) Review cycle, which underpins social work with children and families.

Emphasis is placed on ascertaining the ‘wishes and feelings of the child’ and the ‘wishes and feelings of relevant people’ about the arrangements for the child. A critical part of care planning is ensuring arrangements are in place for contact with siblings and other family members.
Additionally, the Guidance places an emphasis on permanence planning. Permanence is the framework of emotional permanence (attachment), physical permanence (stability) and legal permanence (the carer has a parental responsibility for the child) which gives a child a sense of security, continuity, commitment and identity.

The IRO (Independent Reviewing Officer) chairs Statutory Care Plan Reviews for all children looked after in accordance with the following maximum time scales:

- First Review within 20 days of the child becoming looked after
- Second Review within 3 months of the first review
- Third Review within 6 months of the second review
- Subsequent reviews should be at a maximum 6 monthly interval, or whenever a significant change takes place in the plan for the child.
- A review is also required should a young person change placements (within 28 days).

The Personal Education Plan should cover all the education and training arrangements and needs of the child and should be treated as a ‘living document’ and up-dated as necessary.

The Health Assessment should take place in accordance with the following timescales:

1. At least every 6 months in the case of a child aged under 5; and
2. At least once every 12 months in the case of a child aged 5 and over

The Health Assessment should contribute to the up-date of the Health Plan which is a key part of the overarching Care Plan.

The Placement Plan should be up-dated in advance of a placement move, or where a move takes place at short notice as soon after the move as possible (within 5 working days).

The majority of children looked after are placed with foster carers. Approximately, two thirds of children looked after live in fostering arrangements.

Foster carers tend to fit into three types:

1. ‘Standard’ Foster Carers, these are foster carers approved to take any looked after child;
2. ‘Kinship’ Foster Carers, these are foster carers who are assessed and approved for a specific child, who is related to, or known to the foster carer;
3. Independent Fostering Agency Foster Carers, these are foster carers who are approved and supported via an independent agency and provide foster care to children from a range of local authorities.
All foster carers are approved and regulated via the Fostering Service Regulations, Guidance and National Minimum Standards.

The remaining third of children looked after live in children’s homes, residential schools, specialist therapeutic provision and can be living at home.

Children’s home tend to fit in three broad types:

1. Essex County Council children’s homes which are generally divided into units that take disabled children and those that provide for non-disabled children.
2. Independent children’s homes that take children from different local authorities
3. Specialist therapeutic residential units

Residential schools will often provide placements for children looked after and other children who have a Statement of Special Educational Needs and Disabilities (SEND) but are not looked after.

All placements for children looked after under the age of 16 are regulated under the Care Standards Act 2000 and are inspected by Ofsted.

Children looked after whom return home, should generally only do so as part of a planned reconciliation process. A placement at home is governed by a detailed set of regulations.

Children who are ‘Accommodated’ under Section 20 cease to be looked after when they return to their parents or someone with parental responsibility. This should be agreed by all parties and a plan should be drawn up setting out the support to be provided to the child and family. Where appropriate an IRO should hold a statutory review and agree the support and plan.

Children who are subject to a Section 31 ‘Care Order’ remain looked after until they reach the age of 18, or until the family court revoke the ‘Care Order’. In order for a ‘Care Order’ to be revoked (discharged), a request and report needs to be submitted to the family court. In general, the request would need to be supported by all parties and set out why the circumstances that led to the ‘Care Order’ being made have changed and are no longer applicable.

Children looked after do not automatically get sent a National Insurance Number at 15 and 9 months as most children do. National Insurance Numbers are allocated and sent to the address where a child has a Child Benefit claim. As children looked after do not get child benefit their number does not automatically get issued and social workers will need to contact the National Insurance Section of HMRC to obtain the child’s N.I. Number.

Young People Looked After aged 16 & 17
The majority of the children looked after system continues to apply when a child reaches the age of 16 with additional responsibilities in terms of preparing young people for the Transition to Adulthood (leaving care).

Local authorities are required to have policies in place regarding how the authority will prepare young people for the Transition to Adulthood and when they leave care, or make the transition to an Adult Service.

Young people who have been looked after for at least 13 weeks from the age of 14 and are looked after aged 16 or 17 are deemed ‘Eligible’ Children under the Care Planning, Placement and Case Review Regulations 2010.

‘Eligible’ Children (also called Eligible Care Leavers) should have a Pathway Plan that incorporates the Care Plan. The Pathway Plan which includes, and covers the same dimensions as the Care Plan should set out all of the arrangements to ensure that the young person makes a successful transition from care to independent living, or to an Adult Service.

All ‘Eligible’, ‘Relevant’ and ‘Former Relevant’ children should have a named Personal Adviser and Pathway Plan. The Placement Plan (PP) ceases when a child ceases to be looked after and the Personal Education Plan (PEP) ceases when a child reaches the end of school year 13. When the PP and PEP cease the areas covered in these plans become a more integral part of the Pathway Plan.

The Pathway Plan and Pathway Plan Review system mirrors the Care Planning and Review system.

The social worker for an ‘Eligible’ child will generally also act as the young persons Leaving Care Personal Adviser.

The local authority remains responsible for ‘Eligible’ and ‘Relevant’ children until they reach the age of 18 (both placement/accommodation and financial support).

From the age of 16 ‘Eligible’ and ‘Relevant’ children can be placed in what is termed ‘Other Arrangements’, these types of accommodation are not inspected by Ofsted. The Care Planning, Placement and Case Review Regulations 2010 sets out a framework for the local authority to assess their suitability and the circumstances of children who can move to these arrangements.

From the age of 18 ‘Eligible’ and ‘Relevant’ children become ‘Former Relevant’ children.

Young People remain ‘Former Relevant’ children until their 21st birthday, or until they complete the education programme they are engaged in on their 21st birthday.
Young people aged 21 to 25 who were previously ‘Former Relevant’ children have the right to return to their ‘Responsible Authority’ for support with education or training. The ‘Responsible Authority’ must assess the young person’s needs and provide practical and financial support, a Personal Adviser and a Pathway Plan.

The Personal Adviser for ‘Former Relevant’ children is generally an unqualified worker (not social work qualified).

Young people aged 16 and 17 have the right to request to be ‘Accommodated’ in their own right. The local authority has to undertake an assessment of the young person to ascertain if ‘their welfare would be seriously prejudiced’ without the provision of services under Section 20 (3) the Children Act 1989.

Homeless 16 and 17 year olds are primarily the responsibility of Children’s Service (see Southwark Judgement – Case Law). The local authority is required to undertake an assessment of the circumstances of the young person under Section 20 (1) the Children Act 1989.

The following groups of young people are deemed ‘Qualifying’:

- Children who are looked after for at least 24 hours aged 16 and 17 but less than 13 weeks.
- Children who were looked after (at any age) prior to being made subject to a Special Guardianship Order
- Children privately fostered
- Children who were looked after for more than 13 weeks with at least 24 hours aged 16 and 17 under short break (all planned and non being more than 4 weeks each) arrangements are deemed ‘Qualifying’.

‘Qualifying’ Children are entitled to an ‘Assessment of Need’ and can be provided with the same level of service as ‘Eligible’, ‘Relevant’ or ‘Former Relevant’ children depending on the assessment of need.

The majority of ‘Eligible’ and ‘Relevant’ children are not able to claim means tested benefits. The only groups (16 & 17 year olds) that are able to claim benefits are young people who are deemed ‘Sick and Disabled’ who can claim Employment and Support Allowance and lone parents who can claim Income Support, Child Tax Credits, Healthy Start Vouchers and a Sure Start Maternity Grant (from the birth of their baby).

Legally, children become adults on their 18th birthday and as such they cease to be looked after. Fostering regulations and children’s homes regulations cease to apply when the child reaches 18. In order for young people to remain in a children’s homes post 18 a move-on plan needs to be in place and agreed by Ofsted. For young people to remain in a fostering arrangement post 18 (where children looked after live) the young person needs to be
deemed an adult member of the household and will be subject to a number of safeguarding checks.

Local authorities are required to have a ‘Staying Put’ policy which highlights how the authority will support young people to remain in their former foster care placements post 18.

From the age of 18 the primary responsibility for accommodation switches from children’s services to the housing authority. Care leavers aged 18 to 21 are a ‘Priority Need’ group in terms of housing authority housing duties. Children’s services continue to have a degree of responsibility to provide placements to ‘Former Relevant’ children post 18. This is particularly important for ‘Former Relevant’ children who have a Statement of Special Educational Needs and Disabilities (SEND), or a disability and will transfer to Adult Services.

Young people who are a ‘Former Relevant’ child and are a Adult Services case have a right to both services. Depending on the young person’s level of need the primary responsibility will rest with Children’s Services or Adult Services. When the young person ceases to be a ‘Former Relevant’ child at 21 the entire responsibility becomes that of Adult Services.

From the age of 18 ‘Former Relevant’ children are expected to derive their income from employment, education allowances or welfare benefits in the same way that other young people should.

The main financial support provided by Children’s Services to ‘Former Relevant’ children relates to ensuring that they have key identity documents such as passports, birth certificates, that they have household items to sustain independent accommodation and that they are supported to undertake education and training opportunities.

Criminal Injuries Award Payments that some children looked after and care leavers receive, as well as Disability Living Allowances are disregarded when assessing the level of financial support that the Children’s Services provides.