

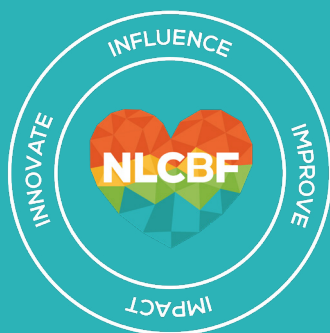
Guide to Supporting Qualifying Young People

As amended by the Care Leavers
(England) Regulations 2010

National Leaving Care Benchmarking Forum



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1. INTRODUCTION

The Children (Leaving Care) Act 2000 (As amended by the Planning Transition to Adulthood Guidance 2010, which includes the Care Leavers (England) Regulations 2010) defines groups of care Leavers as Eligible, Relevant, Former Relevant and Qualifying.

The guidance around this information is contained in the Children Act 1989 guidance and regulations Volume 2: Care Planning, Placement and Case Review ([Children Act 1989: care planning, placement and case review - GOV.UK \(www.gov.uk\)](#)) and Volume 3: Planning Transition to Adulthood for Care Leavers. ([Children Act 1989: transition to adulthood for care leavers - GOV.UK \(www.gov.uk\)](#))

Although the support offered to Eligible,

2. PURPOSE OF THE GUIDANCE

The purpose of this factsheet is to provide an overview of 'young people deemed 'Qualifying Care Leavers'', including definitions, eligibility and entitlements. The factsheet has been developed to answer frequently asked questions and clarifications requested by members of the National Leaving Care Benchmarking Forum (NLCBF).

Relevant and Former Relevant young people has been relatively clear there has been a number of questions regarding the service offered to those young people who are deemed as Qualifying.

This guide is designed to identify the circumstances whereby young people establish a qualifying status and what support should be offered to them. This document does not constitute legal guidance but reflects our understanding of the legislation, we always suggest you contact your own legal services to gain legal advice regarding services and support offered to young people who are deemed Qualifying under the terms defined in legislation.

3. DEFINITIONS, ELIGIBILITY AND RESPONSIBILITIES:

Section 24 of the Children Act 1989 defines the following groups of children as 'Qualifying Children and Young People' – Persons Qualifying for Advice and Assistance – Aged 16 to 25:

- Subject to a Special Guardianship Order, or if age 18 was subject to an SGO (and was looked after immediately prior to the making of the Order);
- Was looked after at any point after the age of 16 and is no longer looked after (minimum of 24 hours);
- Was looked after at any point after the age of 16 but has not completed 13 weeks of being looked after and is therefore not an 'Eligible Care Leaver';
- Has ceased to be looked after and has returned to, or remained living with a parent or person with parental responsibility and after completing 6 months month's at home becomes a 'Qualifying Care Leaver';
- Note if this arrangement breaks down prior to the young person's 18th birthday, they automatically revert to being a 'Relevant Care Leaver' and consideration should be given to reaccommodating the young person under section 20 (1) or section 20 (3);
- *Privately fostered (is or was privately fostered aged 16 or 17)*
- *Accommodated by or on behalf of a voluntary organisation;*
- *Accommodated in a private children's home;*
- *Accommodated for a consecutive period of three months by any local health board/ special health authority or by a local authority in the exercise of an education function [residential special school];*
- *Accommodated for a consecutive period of three months in a care home or independent hospital or in any accommodation provided by or via NHS England, an Integrated Care Board, National Health Trust, NHS Foundation Trust;*
- *The three months of continuous provision can commence prior to the young person's 16th birthday but needs to include time when the young person is 16 or 17 years of age.*



4. THE RESPONSIBLE LOCAL AUTHORITY:

- Where a young person is Qualifying as a result of being looked after, the responsibility for the provision of a service rests with the responsible local authority that last looked after the young person;
- Where the young person is Qualifying for any other reason (e.g. private fostering), the responsibility for the provision of a service rests with the local authority where the young person presents and requests a service.

Responsibilities:

4.1 Where a young person is Qualifying as a result of being looked after, it is the duty of the local authority that last looked after the young person to take steps as they think appropriate to contact them at such times as they think appropriate with a view to discharging their duties under Section 24A and 24B.

4.2 The Planning Transition to Adulthood for Care Leavers [DfE \(publishing.service.gov.uk\)](https://publishing.service.gov.uk) highlights that each "local authority should be able to provide written information, in a leaflet and available on the authority's website, to potentially qualifying young people informing them about their entitlement to an assessment and the range of services that they might expect to receive as a result. This must include clear details about how to access the authority's processes for making a complaint or representation should the young person not be satisfied with the outcomes of the assessment or any services that follow."

4.3 Section 2.9. states: "Where a qualifying child has been previously looked after, the local authority must assess their needs to establish whether they require advice and assistance. Where, following an initial assessment, the authority concludes that support will be necessary over a period of time, they should draw up a plan with the young person outlining the support that will be provided. In order to determine the extent of the support required, a core assessment may be required and the plan that follows might follow the same format as a pathway plan for a relevant or former relevant child. The plan will outline the support to be provided to the young person, including, if necessary, any financial support. The plan should be drawn up by a social worker or suitably qualified person".

4.4 As such, each authority should provide information for 'Qualifying Young People' about 1) How to access an assessment, 2) The format of the assessment, 3) How the assessment will be conducted, 4) The information required when conducting the assessment and 5) What services may be provided following the outcome of the assessment. In short, the Guidance sets out that Qualifying Young People may have the same needs and vulnerabilities as Eligible, Relevant and Former Relevant Care Leavers and as such may need a service akin to that provided to those groups.

4.5 In essence, the entitlement to a service and the nature of the service for 'Qualifying Care Leavers' has to be based on an assessment of need. Local Authorities should therefore, as set out above, produce an assessment framework/document to be used with this group or use the Leaving Care Assessment of Need (Regulation 42) [Pathway Plan Part One] and indicate what information would be sought when completing the assessment.

4.6 As there is no duty to provide a personal adviser or pathway plan for 'Qualifying Care Leavers' the guidance highlights that the pathway plan format could be used as the basis of a plan and that a Personal Adviser could provide the support as they will be the worker most likely to be able to deliver an appropriate and comprehensive service given their knowledge base. Depending on the nature of the support required, the support provided could be ongoing or targeted and/or time limited. Once the assessed need is addressed and resolved, the service could come to an end with the young person being given an understanding how they could request a further assessment in the future should they need to (and as highlighted above the authority would need to continue to take reasonable steps to contact the young person at such times as they think appropriate with a view to discharging their functions under Section 24A and 24B).

4.7 The type of assessment and plan; the nature of the support worker and frequency of reviews would need to be agreed by the local authority, but for simplicity they may all be based on the assessment, pathway plan, Personal Adviser and review framework applied to Eligible, Relevant and Former Relevant Care Leavers.

5. SPECIAL GUARDIANSHIP ORDERS

5.1 Where children/young people become subject to a Special Guardianship Order (and cease to be looked after) the Special Guardianship Support Plan should set out how the young person can request an assessment when they reach the age of 16 and become a 'Qualifying Care Leaver' (and/or require a service). Similarly the Care Leavers Local Offer should contain information about how to request an assessment and the potential service offer available depending on the outcome of the assessment process

5.2 Where a Special Guardian moves area, the responsibility for financial support remains with the local authority who last looked after the child where the payments are ongoing and agreed prior to the making of the order. Where the payments are one off and the period is less than three years since the making of the Order, the responsibility for a reassessment and financial support remains with the local authority that last looked after the child. After three years the responsibility for the reassessment and one-off payments of financial support is the responsibility of where the Special Guardian/child lives. Regulation 5, Section 31-36, Pages 13 and 14. [Special guardianship guidance: Statutory guidance \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/guidance)

6. EDUCATION, EMPLOYMENT AND TRAINING

6.1 Entitlement to support extends to the age of 25. Where a young person requests support with an education, training and employment expense or activity entitlement to support continues until the age of 25. The request for the assessment and service would be the responsible authority, i.e., the authority that looked after the child if they are Qualifying as a result of being looked after or the authority where the young person resides if they are Qualifying for any other reason.

6.2 Section 24B, (5) gives young people who are undertaking full time further or higher education courses, entitlement to the provision of accommodation or the means to secure such accommodation

during the vacation periods if the term time accommodation they have is not available and there is a need for accommodation. In such situations, the assessment framework should explore what accommodation may or may not be available to the young person during the vacation periods and what the costs are of accessing any vacation accommodation. [Children Act 1989 \(legislation.gov.uk\)](https://legislation.gov.uk) (See Section 24)

[Children Act 1989: transition to adulthood for care leavers - GOV.UK \(www.gov.uk\)](https://www.gov.uk) - See page 14 and pages 15 to 17 for Guidance

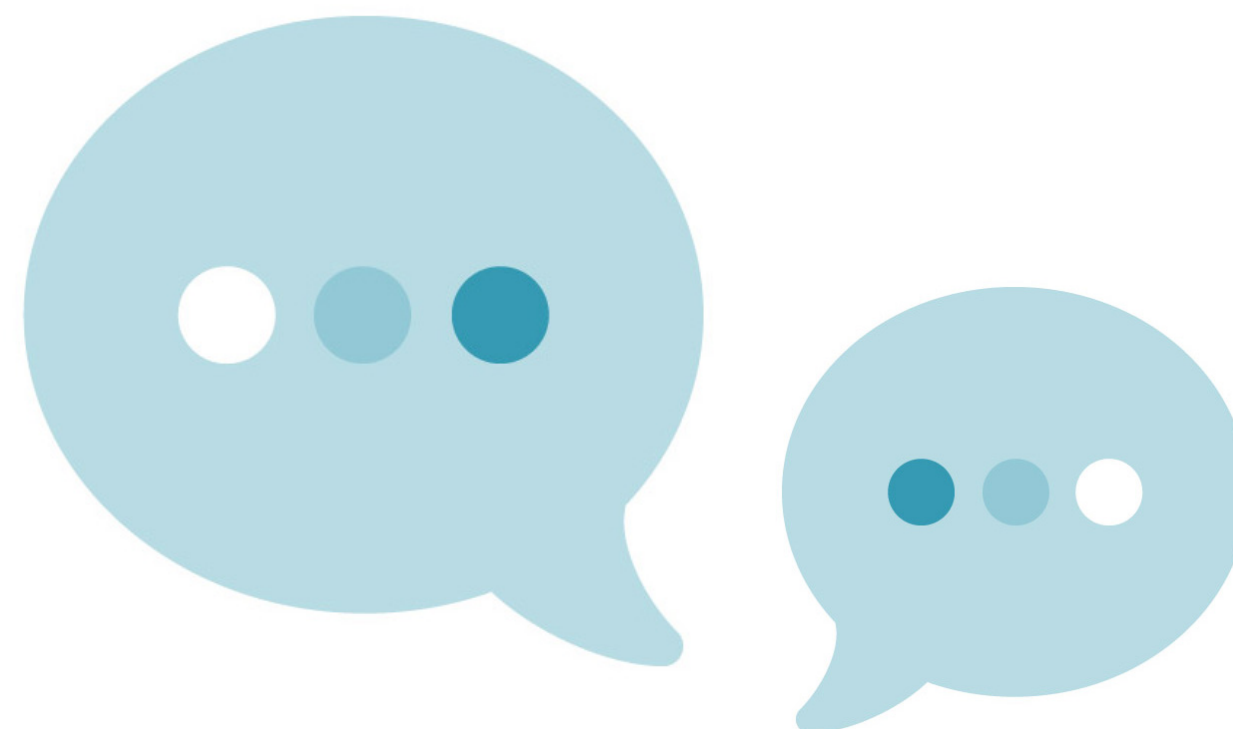
7. RESPONSIBLE LOCAL AUTHORITY

(NOTES, ANNOTATIONS & COMMENTS)

7.1 The Planning Transition to Adulthood for Care Leavers (Regulations and Guidance) section 2.10, notes "A young person who was not looked after for 13 weeks may be a qualifying child. If that young person returns home, perhaps as a result of a decision made at their first statutory review as a looked after child, then that young person should not be regarded as "qualifying" under section 24 of the 1989 Act; rather, support to the young person and his family should be provided under section 17 of the 1989 Act.

7.2 The intention of this element of guidance is to highlight that where young people are 'Accommodated under

Section 20 (1)' short term (less than 13 weeks) and in-line with the Southwark Judgement requirements and the young person subsequently returns home, the support required would fit within the framework of section 17, i.e., supporting the strengthening of the overall family arrangements rather than just the young person. The primary need being that of a 'child in need' linked to family resilience and functioning rather than being a 'Qualifying Care Leaver'. Nevertheless, the young person is still deemed a 'Qualifying Care Leaver' and will be entitled to request an assessment in their own right [particularly where their circumstances may change after the age of 18] (and up to 21/25).



8. CEASING TO BE LOOKED AFTER AND QUALIFYING

AGE 16 & 17 YEAR OLDS (ACCOMMODATED – SECTION 20)

8.1 In circumstances where a young person is 'Accommodated under section 20', they only cease to be looked after following the completion of Regulation 39 and the commensurate processes.

8.2 This Regulation applies to all situations where children (Accommodated under Section 20) cease to be looked after including those returning to parents. [The Care Planning and Fostering \(Miscellaneous Amendments\) \(England\) Regulations 2015 \(legislation.gov.uk\)](#) See Section 7 – Regulation 39

[The Care Planning and Fostering \(Miscellaneous Amendments\) \(England\) Regulations 2015 \(legislation.gov.uk\)](#) See Section 4.17 to 4.22 for commentary

8.3 Regulation 39 requires local authorities to assess the appropriateness of the arrangements for the child when they cease to be looked after, and including the suitability of where the child is living and what support may be required. Where the child/young person is returning home, the assessment should include the support parents might need to ensure the reunification home is successful.

8.4 In situations where the child/young person is aged 16/17, the Director of Children's Services has to authorise and approve the decision to cease the looked after period. Before putting the arrangements in place, the responsible authority and the Director of Children's Services must be satisfied that the proposed arrangements will safeguard and promote the child's welfare.

8.5 When the child/young person ceases to be looked after and if they had been an 'Eligible Care Leaver' they become a 'Relevant Care Leaver' and after six months they become a 'Qualifying Care Leaver'.

8.6 If they reach their 18th birthday before six months as a 'Relevant Care Leaver' has passed they become a 'Former Relevant Care Leaver'.

8.7 If they complete six months as a 'Relevant Care Leaver' and become a 'Qualifying Care Leaver' and then the arrangement breaks down prior to their 18th birthday, they automatically revert to being a 'Relevant Care Leaver' and consideration should be given to reaccommodating the young person under section 20 (1) or section 20 (3);

8.8 Transferring from being a 'Relevant Care Leaver' to a 'Qualifying Care Leaver' can only occur after six months and where a young person has returned to live with a parent or person with parental responsibility.

8.9 The status that the young person has on their 18th birthday will remain until the age of 21/25 regardless of returning to the family home or leaving the family home subsequently, i.e., Former Relevant or Qualifying.

8.10 Qualifying Care Leavers are entitled to return to the responsible authority to request a service up to 21 and if the request relates to support with education or training this extends to the age of 25.

8.11 Where a child/young person is Qualifying as a result of being looked after and moves area, the responsibility for the provision of the leaving care service will always remain with the authority who last looked after them. However, if aged 16 or 17 they may become a 'Child in Need' in the new area and then become looked after, the responsibility for the provision of the leaving care service transfers to the new authority, who is looking after them. If the young person had accrued time looked after in their original authority (after age 14), this would be added to the time in the new authority in terms of counting towards the 13 weeks required to become an 'Eligible' care leaver. This is a complex area of practice and will depend on a number of factors such as time accrued since they left the original authority and connections with both the original and new authority.

9. CEASING TO BE LOOKED AFTER AND QUALIFYING

AGE 16 & 17 YEAR OLDS (CARE ORDER – SECTION 31)

9.1 In circumstances where a young person (aged 16/17) is subject to a 'Care Order under Section 31' and is placed/living with a parent under a placement with parent arrangement, they will be deemed an 'Eligible Care Leaver' if they meet the two conditional criteria:

- a) being looked after for 13 weeks between their 14th and 18th birthday [does not need to be consecutive and could be made up of a series of looked after episodes]; and
- b) they have been looked after for at least 24 hours aged 16/17 [does not have to straddle their 16th birthday].

9.2 If the 'Care Order' is discharged the young person will become a 'Relevant Care Leaver'. The guidance sets out that the young person will become a 'Qualifying Care Leaver' if they have lived at home for a continuous period of six months and also states that the six months can be (start) before or after the discharge of the 'Care Order'.

9.3 Where a young person has lived at home for at least six months, is aged 16 or 17 and the 'Care Order' is discharged they therefore immediately become a 'Qualifying Care Leaver' and as such no longer require a personal adviser or pathway plan.

9.4 The guidance goes on to highlight that if the arrangement ('Qualifying Care Leaver' living with parent/s) breaks down prior to reaching the age of 18 they automatically revert to, or become a 'Relevant Care Leaver' and consideration should be given to reaccommodating the young person under section 20 (1) or section 20 (3).

9.5 If the arrangement at home breaks down after the young person's 18th birthday and they are a 'Qualifying Care Leaver' they retain their 'Qualifying Care Leaver' status and would be entitled to a service based on the 'Assessment of Need'.

9.6 When discharging the 'Care Order' for such young people, the contingency plan should highlight that if the arrangement breaks down the young person will have entitlements as a 'Relevant Care Leaver', thus potentially reassuring the court of such a 'safety net' should difficulties be encountered prior to the age of 18.

9.7 The regulation and guidance covering this area is contained within the Planning Transition to Adulthood for Care Leavers (Regulations and Guidance), The Care Leavers (England) Regulations 2010, Part 1, Relevant Children, 3, 1 (b) and 4 (a). In addition, the six months rule applies if the young person has resided with a person with parental responsibility 4 (b) for six months, or where there is a residence order in place and the young person has resided for six months 4 (c), in such situations on the discharge of the 'Care Order' the young person becomes a 'Qualifying Care Leaver'.



10. ADDITIONAL CATEGORIES OF RELEVANT CARE LEAVERS THAT OFTEN CAUSE CONFUSION

The following groups of young people are deemed 'Relevant Care Leavers' but may not have been looked after at the age of 16 or 17. These groups are deemed 'Relevant' on the basis that they would have met the two qualifying criteria if they had not ceased to be looked after due to being required to live in a different part of the secure estate and as a result of offending issues or health and wellbeing requirements.

11. YOUNG PEOPLE (SECTION 31) DETAINED

Where children/young people are subject to a Section 31 Care Order and are detained in hospital or a Young Offenders Institute (YOI), Secure Children's Home (SCH), or Secure Training Centre (STC), they remain subject to the Section 31 Care Order.

12. YOUNG PEOPLE ON REMAND

12.1 Where young people are remanded into Young Offenders Institute, Secure Children's Home, or Secure Training Centre, they become looked after under Section 21 or, if they were already Section 20, they remain as such whilst on remand.

12.2 In situations where a child/young person is subject to Section 20 or Section 21 and receives a custodial sentence they cease to be looked after and become subject to regulations covering formerly looked after children in custody. (See section 13.2)

12.3 In circumstances where a child/young person 'Accommodated under Section 20' completes 13 weeks as a looked after child at the age of 14 or 15 receives a custodial sentence and therefore ceases to be looked after, on reaching the age of 16, they become a 'Relevant Care Leaver'. This is on the basis that if the young person had not received the custodial sentence, they would have been looked after on their 16th birthday and as such would have been deemed an 'Eligible Care Leaver'.

13. YOUNG PEOPLE IN CUSTODY

13.1 Similarly if a young person aged 16 or 17 is remanded and therefore becomes looked after, after completing 13 weeks they become an 'Eligible Care Leaver' (section 21) and if they subsequently receive a custodial sentence they become a 'Relevant Care Leaver' as they cease to be looked after at the point of the custodial sentence. At age 18 they then become 'Former Relevant Care Leaver'.

13.2 The guidance - [Children Act 1989: former looked-after children in custody - GOV.UK \(www.gov.uk\)](#) introduced Section 23ZA into the Children Act 1989. This imposes a duty on the local authority to ensure that a child (who is not a 'Relevant Care Leaver') who was looked after by that local authority, but has ceased to be so, as a result of certain circumstances, is visited by a representative of the authority. The local authority also has a duty to arrange for appropriate advice, support and assistance to be available to those children.

13.3 A similar approach applies to children/young people who are detained in hospital, if they are subject to a 'Care Order under Section 31' they remain looked after, if they are Accommodated under Section 20 they cease to be looked after on being detained. The regulations and guidance set out the same approach to children/young people receiving a custodial sentence and ceasing to be looked after. Namely that where children looked after aged 14 or 15 complete 13 weeks as a looked after child and are detained in hospital and as a result cease to be looked after, they acquire a 'Relevant Care Leaver' status on reaching age 16.

13.4 The regulation and guidance covering this area are contained within the Planning Transition to Adulthood for Care Leavers (Regulations and Guidance), The Care Leavers (England) Regulations 2010, Part 1, Relevant Children, 3, 1 (a), (b), (c).

13.5 Children and young people aged 16 & 17 who meet the definition of an 'Eligible Care Leaver' or 'Relevant Care Leaver' are not deemed such, if, the 13 weeks was as a result of being looked after by a local authority in the course of a pre-planned series of short term placements (short breaks), none of which individually exceeded four weeks, where at the end of each such placement the child returned to the care of their parent, or a person who is not a parent but who has parental responsibility for them. This would generally apply to young people who received services from a children with disabilities or complex needs service.



14. INFORMATION ON AUTHORS

This guidance has been developed by John Short & Darren Bishton

John Short:

John specialises in training, consultancy and service/policy development relating to children looked after; foster care; leaving care; staying put/supported lodgings/shared lives; accommodation, placements and housing; special educational needs and disabilities (SEND) and transitions. John has worked in the children looked after and leaving care field for over 30 years.

From 2009 to 2013, John worked with the Department for Education assisting with the development of the Care Planning, Placement and Case Review Regulations and Guidance 2010; the Planning Transition to Adulthood for Care Leavers Regulations and Guidance 2010 and related training materials and produced the joint DfE, DWP and HMRC Staying Put Guidance published in May 2013.

John has extensive experience of developing and managing services in the social care, housing, education and SEND and transition fields. He has designed and run training courses on staying put, the care planning and leaving care regulations and guidance, transition planning, pathway planning, preparation for independence, supported housing and accommodation frameworks, asylum issues and welfare benefit and finance issues with over seventy five local authorities and voluntary organisations and since 2016 provides the leaving care policy up-date at the National Leaving Care Benchmarking Forum.

Darren Bishton:

Darren qualified as a social worker in 1991 and initially worked in looked after, and child protection teams. In 2000, Darren worked as Assistant Team Manager in Warwickshire and was part of the Children (Leaving Care) Act 2000 implementation group. In 2004 Darren became the Team Manager of the 16+ team in Solihull which later became the Child Asylum and 16+ team. Darren led the team through a number OFSTED inspections and developed services such as the Staying Put scheme, pathway planning, quality assurance and financial procedures. He was also lead officer responsible for the introduction of the Local Offer in Solihull. Darren also chaired the West Midlands Leaving Care Regional Forum and was a member of the National Leaving Care Benchmarking Steering Group for five years.

Darren Bishton is now the Practice Lead for National Leaving Care Benchmarking Forum (NLCBF).

[NLCBF](#) is a forum of over 130 English local authority leaving care teams, working together to share good practice & improve services & support for care experienced young people. NLCBF is part of the charity [Catch22](#).

15. REFERENCES

- [Special guardianship guidance: Statutory guidance \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)
- [Children Act 1989 \(legislation.gov.uk\)](https://www.legislation.gov.uk)
- [Children Act 1989: transition to adulthood for care leavers - GOV.UK \(www.gov.uk\)](https://www.gov.uk)
- [The Care Planning and Fostering \(Miscellaneous Amendments\) \(England\) Regulations 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk)
- [The Care Planning and Fostering \(Miscellaneous Amendments\) \(England\) Regulations 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk)
- [Children Act 1989: former looked-after children in custody - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

16. ACKNOWLEDGEMENTS

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National Leaving Care Benchmarking Forum is a forum of over 130 leaving care teams across England, working together to improve services & support for care experienced young people

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