

**LONDON BOROUGH OF  
LEWISHAM  
STAYING PUT PROCEDURE**

**November 2015**



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### **1. Introduction**

- 1.1. Statutory guidance on Staying Put was published in May 2013 to meet the new duties towards care leavers in the Children and Young Persons Act 2008 and the Planning Transition to Adulthood for Care Leavers 2010 (Regulations and Guidance). Each local authority is required to have a Staying Put Policy

that sets out arrangements whereby the authority will promote the extension of foster care placements beyond a young person's eighteenth birthday. The intention of this approach is to ensure that young people can remain with their former foster carer/s until they are prepared for adulthood, and experience a transition akin to their peers, avoid social exclusion and reducing the likelihood of subsequent housing and tenancy breakdown.

- 1.2. This procedure sets out the conditions required to extend a former fostering arrangement beyond a young person's eighteenth birthday, the associated financial implications, the social care requirements associated with extending former fostering arrangements and the consequential Income Tax, National Insurance and Welfare Benefit issues.
- 1.3. Where possible, DfE, DWP and HMRC definitions and frameworks relating to Staying Put have been harmonized. However, given the complexity of the three different legislative frameworks relating to Staying Put arrangements, this has not been wholly possible. Therefore, it is very important that Staying Put Carers obtain independent advice on their individual circumstances/situation.

## **2. Scope**

- 2.1. Young people are legally no longer in care from the age of eighteen and therefore, fostering arrangements no longer apply. The legal basis on which they occupy the former foster care home changes and they become an 'excluded licensee' who is effectively lodging in the Staying Put Carer/s home. However, this should not mean that the young person is treated differently than as they were a fostered child. The placement should be carefully planned to ensure that the young person and the carer/s understand the nature of the arrangement and that the positive aspects of being in foster care are not diminished.
  - This Staying Put Procedure is applicable to all young people looked after by Lewisham who are living with foster carers on their eighteenth birthday, whether they are with Lewisham carers or with Independent Fostering Agency (IFA) carers.
  - The policy also applies to Unaccompanied Asylum Seeking Children (UASC) who reach the age of 18. However, in circumstances where the young

person is awaiting a Removal Notice continued financial support must be reviewed on a case by case basis.

- Young people in kinship care who are eligible children and are looked after up to the age of 18 may continue to remain where they are under a Staying Put arrangement.
- Young people who are in residential placements are **not** covered by the Staying Put Procedure, but early transition planning will be essential for these young people to help them achieve good outcomes in the future.

### 3. Criteria

#### 3.1. “Staying Put” arrangement applies to:

- A young person who was looked after immediately prior to their eighteenth birthday (as an eligible child) who continues to reside with their former foster carer/s. A young person is deemed an eligible child, within the meaning of paragraph 19B(2) of Schedule 2 to the Children Act 1989, immediately before he/she reached eighteen;
- The carer must be the same person who was looking after the young person immediately prior to the young person’s eighteenth birthday;
- A Staying Put arrangement must have been set out in the child/young person’s Pathway Plan;
- A proportion of the allowance paid to the Staying Put Carer/s must be paid by the Local Authority Children’s Services under section 23C of the Children Act 1989.

#### 3.2. Staying Put arrangements prevail until:

- The young person leaves the Staying Put arrangement;  
or
- The young person reaches their twenty-first birthday, if continuously, and still living in the arrangement;  
or
- The young person completes the agreed programme of education or training being undertaken on their twenty-first birthday, if continuously living in the arrangement since their eighteenth birthday.

## **4. Fostering and Staying Put Regulatory Frameworks**

### **4.1. Where foster children are living in the Staying Put arrangement**

- 4.1.1. If there are foster children living in the household along with the Staying Put young person, the checks and requirements associated with fostering legislation will continue to apply.
- 4.1.2. The Staying Put Carer must remain an approved foster carer and the Fostering Services (England) Regulations and Guidance 2011 will apply.
- 4.1.3. Additionally, where foster children are in placement, the foster carer/s will need to return to the Fostering Panel due to a change in circumstances as the young person Staying Put will have reached adulthood and become an adult member of the fostering household.

### **4.2. Where no foster children are living in the Staying Put arrangement**

- 4.2.1. If there are no other foster children in the same placement as the Staying Put young person, statutory requirements relating to fostering will not apply. However, good practice should continue to govern the expectations of the Staying Put arrangement when a young person reaches the age of eighteen. This should include:
  - Reviewing and approving the Staying Put arrangement and carer/s through a Pathway Plan process to ensure the arrangement complies with the local authority's expectations; (**Also see Monitoring and Reviewing section below**)
  - Ensuring DBS checks have been done on household members and in certain circumstances regular visitors;
  - Health and safety requirements (as a minimum this should comply with landlord and licensee/tenant requirements); for more information go to [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/9429/322463.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/9429/322463.pdf)
  - Regular supervision and support for foster carers from their fostering Supervising Social Worker (SSW). The SSW will visit the Staying Put Carer every three months and provide support as needed.

- 4.2.2. In circumstances where it is clear that the Staying Put Carer will not be fostering any further children, it may be deemed appropriate to terminate their approval as a foster carer. In situations where it is possible that they may foster again in the future, it would be inappropriate to terminate their approval, given the length of time that re-approval would take.
- 4.2.3. Where a foster carer's approval is terminated the local authority will need to ensure the Staying Put arrangement continues to meet appropriate standards.

## 5. Planning

- 5.1. Staying Put should be considered at the first Statutory Review post 16. This will enable the views of all key parties to be considered. The recommendation of the Review must be brought to the Team Manager who will take this to the Service Manager for approval. Minutes of the meeting must be uploaded on to ICS.
- 5.2. The Pathway Plan will be updated to reflect the fact that the young person is going to Stay Put.
- 5.3. Social Worker's must ensure that the Pathway Plan and further reviews take into account the Staying Put planning and subsequent arrangements.
- 5.4. Young people remaining with foster carers, post 18, will become adult members of the household and will therefore, require a valid **DBS** check and **risk assessment**. Each case will be assessed individually and relevant risk assessments undertaken.
- 5.5. If there are other young people in the foster home, the foster carers' Supervising Social Worker must discuss the proposal with the children's Social Workers.

## 6. Staying Put – Education

- 6.1. Young people can remain in the Staying Put arrangement to complete/part-complete an education or training course beyond their 21st birthday. The criteria for this are:

- The extension applies to the course, or level of the course that the young person is undertaking on their 21<sup>st</sup> birthday. For example, if a young person is 21 in March, and is undertaking the second year of a two year course the extension would apply until the course is completed in July of the same year (the year of their 21st birthday).

**Or**

- If the young person is 21 in March and is undertaking the first year of a two year course, the extension would only apply until the end of July of the same year.
- The extension applies to the level of the GNVQ and NVQ course that the young person is undertaking on their 21<sup>st</sup> birthday, i.e. if a young person is undertaking a level 1 GNVQ course on their 21 birthday the extension runs until the completion of the level 1 GNVQ course.
- The extension ceases at the point a young person leaves a course or chooses to transfer to another course.

## 7. Financial Arrangement

Item	Staying Put arrangement
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Rate of pay for Staying Put arrangement	<p>All LBL carers will receive the full fostering allowance for 12 weeks beyond the young person's 18<sup>th</sup> birthday. This addresses the current inequality with payments through the academic year. It allows carers sufficient time to make any transitional arrangements. Although ideally this should have been discussed at each review beyond the young person's 16<sup>th</sup> birthday. After the 12 weeks carers will be paid an allowance of <b>£300 per week</b>.</p> <p>IFA carers will receive the Lewisham flat rate of <b>£300 per week</b> which will be paid directly to the carers. The transition period will be 6 weeks following the young person's 18<sup>th</sup> birthday. The IFA provider agency will be paid the full rate during the transition period.</p> <p>The allowance covers accommodation, heating, lighting, rent, food and other associated placement costs.</p> <p>Carers will still receive a birthday &amp; festival allowance. A holiday allowance will be considered in exceptional circumstances and agreed by the Service Manager for LAC &amp; Leaving Care as appropriate.</p> <p>Young people in IFA placements will receive the same allowances as those with LBL carers dependent on their legal status.</p>
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Allowance to young people	<p>Young people who are <b>not</b> in receipt of Income Support or Maintenance allowance (who have no access to public funds) will receive <b>£25</b> per week <b>plus</b> the cost of an Oyster card to cover the relevant zones for school/college attendance. The Social Worker will set this cost up and it will come directly from LBL.</p> <p>Young people who are in receipt of Income Support (currently £56.80 per week) and those who receive Financial Maintenance payment (currently £56.80 per week) from LBL will <b>not</b> receive any additional support from LBL. However, young people of 18 years of age are entitled to apply and receive a guaranteed bursary of £1,200 each year from their educational establishment <b>but</b> if they are 19 years of age when they start their course they are not entitled to a bursary.</p> <p>Where the young person receives one of these allowances they should pay their carer directly a total of £5 per week towards the cost of household bills.</p>
Young people at university (away from placement)	<p>A retainer allowance of <b>50%</b> (£150) of the full allowance will be paid to Staying Put Carers during term time when young people are away at university to keep their places open. During the holiday period when young people return to their Staying Put Carer a full allowance of £300 will be paid.</p>

<p>Young people attending higher education / university locally who wish to remain in Staying put arrangement</p>	<p>Leaving Care young people will be treated as Independent Students and as such will be entitled to maximum loans and grants from Student Finance England which includes tuition fee and living cost loan and grant <a href="https://www.gov.uk/student-finance/loans-and-grants">https://www.gov.uk/student-finance/loans-and-grants</a></p> <p>A meeting should take place to clarify the funding arrangements as soon as the young person has made a decision to attend university.</p> <p>Where the young person receives these loans and grants they should pay their carer directly a total of £10 per week towards the cost of household bills.</p> <p>Where the young person has a reasonable level of disposable income their carer should also encourage them to purchase some of their own food out of their loan/grant income. This will support the young person to develop their budgeting skills.</p>
<p>If young people are in apprenticeships or employment</p>	<p>Where the young person has an income of less than £100 per week they should pay their carer directly a total of £5 per week towards the cost of household bills.</p> <p>Where the young person has an income of more than £100 per week they should pay their carer directly a total of £10 per week towards the cost of household bills.</p> <p>Where the young person has a reasonable level of disposable income their carer should also encourage them to purchase some of their own food out of their income. This will support the young person to develop their budgeting skills.</p>
<p>Young people claiming Income Support</p>	<p>Where the young person receives Income Support they should pay their carer directly a total of £5 per week towards the cost of household bills.</p>

Claiming Housing Benefit on behalf of the young person Staying Put	<p>If the Staying Put Carer is <b><i>not in receipt</i></b> of welfare benefits that would be adversely affected by Housing Benefit being claimed on behalf of the young person then the Social Worker will arrange for Housing Benefit to be claimed on behalf of the young person from their 18<sup>th</sup> birthday. This payment will be made directly to LBL. The Staying Put Carer will need to inform the Personal Advisor as soon as possible if their circumstances change in this respect during the duration of the Staying Put arrangement, so that consideration can be given to stopping the Housing Benefit claim.</p> <p>If the Staying Put Carer is <b><i>in receipt</i></b> of welfare benefits that would be adversely affected by Housing Benefit being claimed on behalf of the young person then the Social Worker will not claim Housing Benefit on behalf of the young person. The Staying Put Carer will need to inform the Personal Advisor as soon as possible if their circumstances change in this respect during the duration of the Staying Put arrangement, so that Housing Benefit can start being claimed by LBL.</p>
Number of children/YP Foster Carer approved for and terms of approval	This should not impact on approval numbers but may in reality impact on availability, if space is a consideration.
Supervising SW	<p>Supervision and support from the fostering SSW will continue if the foster carer still has children placed with them by virtue of another child being in placement. This applies to both, IFA and in-house carers. SSW will take a view on level of support depending on individual needs.</p> <p>If there is only a Lewisham young person in a Staying Put arrangement placed with the carers then a Lewisham SSW will be available to provide support where needed and will visit every three months.</p>

## 8. Staying Put – Vulnerability

8.1. Where young people have an on-going cognitive disability and meet the adult services Fair Access to Care Services criteria (Putting People First), foster placements should be converted to Adult Placements/Shared Lives Arrangements when the young person reaches their eighteenth birthday. This is important to ensure that both the young person and the foster carer and adult placement carer have a formal regulatory and safeguarding framework that addresses their respective needs.

## **9. Monitoring and Reviewing**

- 9.1. The young person's Personal Advisor/Social Worker will make contact with both the young person and the Staying Put Carer within 4 weeks of the Staying Put arrangement commencing to make sure that the arrangement is working well.
- 9.2. In line with requirements, Personal Advisors must review the Pathway Plan six monthly to ensure that the young person's needs are being met. A written record must be kept of the outcome of the review.

## **10. Ending a Staying Put Arrangement**

- 10.1. An agreement should be made at the outset regarding how any wish by the Staying Put Carer or young person to bring the arrangement to an end will be managed. Four weeks notice must be given in writing by either party, unless a planned end has been discussed and agreed in the Pathway Plan.
- 10.2. If the young person decides to leave the placement, they must consult with their Personal Adviser before giving notice.
- 10.3. The Staying Put carer or Personal Adviser may give immediate notice to terminate the placement if the young person is involved in any of the following:
  - A threat to the wellbeing of others or self or property
  - Harassment of others involved in the service or neighbours
  - Misuse of the foster carer's property
  - The possession of any illegal substance whilst in the property
  - Theft from the foster carer or others of the property
  - A serious criminal conviction during the placement



## **Appendix A**

### **Staying Put Agreement**

This is a Contract Agreement between a young person who has reached 18 years and their previous foster carer/s who have agreed for the young person to continue to live with them on a Staying Put arrangement.

The Staying Put Carer will continue to support and encourage the young person through their transition to independence, within an agreed period.

The young person and their Staying Put Carer/s will discuss and agree general principles under the headings below. This needs to include those outlined in the young person's Pathway Plan.

Young person .....

Stay Put Carer/s .....

Address .....

#### **Confidentiality**

(To include the use/management of prior knowledge of the young person gathered when fostered; the handling of post; telephone messages; visitors etc)

#### **Household Rules**

(To include smoking; use of alcohol; over night guests; staying out; household chores i.e. cleaning up after self; use of landline telephone; laundry etc)

#### **Budgeting**

The young person and the Staying Put Carer/s agree to discuss the sensible/responsible/appropriate use of the young person's limited finances.

This is to include understanding of bill paying as a priority etc.

#### **Financial Arrangements**

The young person and the Staying Put Carer/s agree the level and frequency of payments to be made by the young person directly to the carer. Agree that as the young person's financial circumstances change e.g. income/benefits increase or decrease this amount will be reviewed.

Payment description	Day of the week/month to be paid	Payment amount

<i>e.g. payment to carer out of Income Support received to be put towards the cost of household bills</i>	<i>e.g. every Monday</i>	<i>e.g. £5 per week</i>

### **Communication**

All information sharing needs to be done with the consent of the young person, with the exception being an emergency that places the young person at risk.

### **Moving on from Staying Put arrangement:**

Young person and Staying Put Carer/s to view alternative accommodation as appropriate.

Objective of this 'Staying Put' arrangement between ..... and .....:

By adhering to the above agreement and by working with their Staying Put Carer/s, the young person will develop skills that will enable them to care for themselves, enable them to live responsibly independently, within an agreed period.

Young person:

Signature ----- Date-----

Staying Put carer/s:

Signature ----- Date-----

Signature ----- Date-----

PA signature ----- Date -----

PA Name -----

## **Appendix B**

### **Benefit Issues for Staying Put Carers'**

Payments made to “Staying Put” carers under section 23C of the Children Act 1989 via the young person, or directly to the carer/s on behalf of the young person are disregarded when calculating the carer’s entitlement to means tested welfare benefits. The section 23C payment is disregarded in its entirety in circumstances where young people continue to live as a member of their former foster carer’s family on a non-commercial basis.

However, where young people contribute to the arrangement and/or claim housing benefit (which requires a commercial arrangement) they cannot continue to be deemed to be living solely in a familial arrangement and therefore any element of the payment from a source other than the section 23C element is taken into account when calculating the impact on the “Staying Put” carers own welfare benefit claim. The section 23C element will always be disregarded when calculating the “Staying Put” carer’s welfare benefit entitlement.

Early planning for, and identification of, the benefits and financial circumstances of individual carers is critical to ensuring that appropriate plans and arrangements are in place for both the carers and young person. Given the complexity of making these arrangements, planning should commence from the young person’s 16th birthday to provide sufficient time to ensure the necessary arrangements and support are in place by their eighteenth birthday. This should provide enough time to ensure that “Staying Put” carers and the local authority evaluate different options (the DfE regulatory and DWP benefit and HMRC tax issues) and choose an option that best suits the carer’s circumstances and those of the young person.