

Looked After Children – ‘Staying Put’ Policy and Procedure.

Document Control

Document Ref:		Date Created:	3rd March 2014
Version:	V4	Date Modified:	7 th April 2014
Revision due			
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Owning Service	Children's Services		
Equality Impact Assessment: (EIA)	Date undertaken:	3rd March 2014	
	Issues (if any):	None	
Chief Executive	Sign & Date:		
Corporate Director (Community Services)	Sign & Date:		

Change History

Version	Date	Description	Change ID
1	3/3/14	Original	
2	31/3/14	Reformatting	
3	01/04/14	Minor modifications	
4	07/04/14	Minor modifications	

DRAFT POLICY – NOT YET APPROVED BY EXECUTIVE



Contents

1. Introduction.....	3
2. Key aims.....	3
3. Objectives.....	4
4. Entitlement to Stay Put.....	5
5. Establishing Staying Put Arrangements	5
6. Professional role.....	6
7. Changing status	6
8. Financial Guidance.....	7
9. Funding support and funding sources	9
10. Administration.....	11
11. Young people’s contribution.....	11
12. Monitoring and reviewing arrangements	12
13. Ending the Staying Put Arrangements	12

1. Introduction

- 1.1 The Care Matters initiative, the Children and Young Persons Act 2008 and the Planning Transition to Adulthood for Care Leavers 2010 (Regulations and Guidance) require each local authority to have a 'Staying Put' Policy that sets out arrangements to promote the extension of foster care placements beyond a young person's eighteenth birthday. This requirement has been modified by in the light of Government Policy 'Improving the adoption system and services for looked after children'. West Berkshire Council is committed to improving outcomes for care leavers and helping to prevent social exclusion. The Council has therefore developed the following policy in order to ensure that young people aged 18+ can have the opportunity to 'Stay Put' thus providing them with the continuity of support needed to improve their life chances.
- 1.2 Many young people who have been looked after by the local authority experience a compressed transition from childhood to adulthood and the option to Stay Put seeks to protract this period and give the young person a more normal experience of moving into adulthood. Staying Put fits within West Berkshire's aspiration to be a good corporate parent to all young people to whom it has provided a substitute family.
- 1.3 This policy sets out the conditions required to extend a fostering arrangement beyond a young person's eighteenth birthday, including 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.

2. Key aims

- 2.1 The key aims of the Staying Put Policy as stated by the Department of Education are to:
 - Enable young people to build on and nurture their attachments to their carers, so that they can move to independence at their own pace and be supported to make the transition to adulthood in a more gradual way just like other young people who can rely on their own families for this support
 - Provide the stability and support necessary for young people to achieve in education, training and employment
 - Give weight to young people's views about the timing of moves to greater independence from their final care placement.

3. Objectives

- 3.1 The Staying Put Scheme meets objectives within the Children Act 1989 and the Children (Leaving Care) Act 2000 to improve the life chances of young people in and leaving local authority care. The guidance of Children (Leaving Care) Act recommends converting foster placements at 18 into supported lodgings. The Staying Put Arrangement promotes the Act's main aims to young people, which are:-
- To delay young people's discharge from care until they are ready and prepared
 - To improve the assessment, preparation and planning for leaving care
 - To provide better personal support for young people after leaving care
 - To improve the financial arrangements for care leavers
- 3.2 This scheme also fits within the Public Service Agreement 2 National Indicators 147 and 148, which identify whether:-
- The young person is living in suitable accommodation
 - The young person is in Education, Employment or Training
- 3.3 Staying Put contributes to the aims of West Berkshire's Children and Young People's Plan and in particular gives young people who are in stable and supportive placements the opportunity to pursue education, training and employment in order to participate both socially and economically as citizens, without the disruption of having to move into 'independence' during this critical period of their lives.
- 3.4 Staying Put can also contribute to reducing the role of the Personal Adviser or social worker by taking into account the relationship and support provided by the former Foster Carer to the young person, enabling West Berkshire staff to work with other Care Leavers who may be living independently with less support and in more disadvantaged circumstances.
- 3.5 Staying Put reflects West Berkshire's and the Government's determination to improve the experiences of children in care, to challenge the poor outcomes historically experienced by young people in care, and to reduce the gap between the quality of life of young people in the care of the local authority and those raised in supportive families.

Staying Put Procedure

This procedure relates to the process to be followed when making arrangements for a young person in care to remain with the Foster Carer post the age of 18. This is a Staying Put Arrangement.

4. Entitlement to Stay Put

- 4.1 In West Berkshire the Stay Put arrangement applies to all young people who were previously eligible children living in foster care, and who were looked after immediately prior to their eighteenth birthday regardless of whether the young person is under tasking full or part time education, training or employment or none of these activities.
- 4.2 The young person can stay put until their 21st birthday or if they are on an agreed programme of education or training on their 21st birthday when the course is completed.
- 4.3 When an eligible young person has a disability and will be supported by adult services their placement could become a Shared Lives / Staying Put placement. In this case, where this policy and procedure refers to Staying Put it will include Shared Lives.
- 4.4 When a young person goes off to university, if the hosts are able to provide accommodation, they could return during the vacations, the council is not able to hold places open for young people and this will only be possible if the host has the capacity. The council will pay the same rate as for a 20 – 21 year old and if the student is working they will be expected to contribute towards the cost of the placement.

5. Establishing Staying Put Arrangements

- 5.1 The option of Staying Put should be identified within the young person's first Care Planning / Pathway Plan completed after their 17th birthday. The transition or leaving care worker should inform their manager if a Staying Put Arrangement has been identified as an option and is being considered by the young person and foster carers. The manager must inform the Service Manager and Family Placement Team.
- 5.2 An arrangement to Stay Put must be agreed by both the young person and the foster carers. Advice about the differences between a foster placement and a Staying Put Arrangement should be given to the Young Person and Carers by the transition or leaving care worker, in order for both parties to make an informed decision about proceeding with the arrangement.
- 5.3 Occasionally young people or carers may change their minds after making an initial decision about Staying Put. The system should always allow both young people and foster carers to change their minds about establishing a Staying Put Arrangement, but care should be taken to avoid disruption to a young person's education at a critical time.
- 5.4 The appropriate worker will convene a Staying Put Support meeting immediately prior to the young person's 17th birthday, and in collaboration with the young person and foster carer and the Family Placement Social worker complete a Staying Put

Agreement. The purpose of the Staying Put Agreement meeting is for both the former foster carers and the young person to appreciate what is expected of each other. See Annex 1

- 5.5 The young person will be expected to contribute to the cost of their placement through any wages, housing or other benefits. The worker will look at the young person's budget to establish what their contribution will be to the cost of the Staying Put arrangement. Where appropriate the worker will help the young person to maximise their entitlement to benefits. Consideration should also be given to ensure that applications for benefits do not discourage a young person from obtaining or maintaining part or full-time employment.
 - 5.6 The worker will, in conjunction with the young person, follow up these claims for benefits until a decision has been made and a payment commences. In certain circumstances it may be necessary for the Worker to agree with the Service Manager contingency arrangements so that the former carer's remuneration is not disrupted.
 - 5.7 Safeguarding arrangements need to be put in place when a young person becomes 18 and is Staying Put and where foster children remain living in the household. A criminal record check should be undertaken and safeguarding strategies be discussed.
- 6. Professional role**
- 6.1 The young person will continue to have a named worker provide them with support while they are in a Staying Put placement. They will complete Pathway Plans and will work the carer to support the young person to develop the skills they will need in adult life. The worker will ensure that the young person understands the terms of the Staying Put Agreement. This may include reinforcing what the young person is expected to purchase from their salary, benefits or Disability Living Allowance (DLA), supporting the young person to apply for relevant funding and benefits, and helping them to establish a method of making any regular payments such as Local Housing Allowance to the former carer according to the terms of the agreement.
 - 6.2 For West Berkshire carers, the Supervising Social Worker will continue to provide support to the carer. The Family Placement Team's role will involve supporting the carer to understand the nature of the Staying Put Arrangement, their entitlement to funding and advise the carer about their changing role with the young person under the Staying Put Arrangement. They will provide written advice about tax and national insurance implications and personal liability insurance will be given to the foster carers and where appropriate they will be referred to the Citizens Advice Bureaux for guidance.
 - 6.3 For Foster Carers who work for an Independent Fostering Agency, West Berkshire will either negotiate with the agency to continue to provide support for the carer or will provide support themselves. They will support the carer to understand the nature of the Staying Put Arrangement and their changing role with the young person under the Staying Put Arrangement.
- 7. Changing status**
- 7.1 When a foster carer has a young person staying put in their house West Berkshire would want them to remain registered as a foster carer. This will bring them the support of the Family Placement team and the foster care association. While the role will

change the council would want to maintain the same quality of care for the young person.

- 7.2 Where a house-hold continues to have children in foster placement the foster carers will need to return to fostering panel due to changes in circumstances as the young person staying put will have reached adulthood and will be an adult member of the household.
- 7.3 The young person will need a licence agreement from the carers which sets out the nature of the licence agreement and a breakdown of the costs. This will be used by the Housing Benefits Department to maximise the housing benefit for the young person. In addition a Staying Put agreement will be put in place setting out the expectations for the of both the carer and the young person this will be developed with the support of the young persons worker.
- 7.4 The foster carer will have been supporting the young person in their care and helping them to develop self help and independent living skills during the time they have been living with them. This role will different as the young person becomes older and moves towards adulthood. The Pathway Plan will clearly set out the areas for development and what the young person needs to do to achieve those goals. All young people will need to be encouraged to become as independent as possible.
- 7.5 The carer will need to ensure that their where appropriate their tenancy, mortgage and household insurance allows for them having a young person living with them.

8. Financial Guidance

- 8.1 Former foster carers will be given information about the income tax and national insurance implications of the Staying Put Arrangement. Former carers can qualify for care relief for Staying Put if it is an arrangement that has been made by the local authority and payment is made by the local authority. Guidance is available on Her Majestys Revenue and Customs (HMRC) Help Sheet 236 or from “Staying put”, Arrangements for Care Leavers aged 18 and above to stay on with their former foster carers – Department of Education (DfE), Department for Work and Pensions (DWP) and HMRC Guidance, May 2013
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/201015/Staying_Put_Guidance.pdf
- 8.2 HMRC have stated that the same arrangements that apply to Adult Placement 'Shared Lives' carers should apply to former foster placements if the carer continues to provide support, and continues to receive the same level of payment.
- 8.3 For carers who are in receipt of welfare benefits, advice will be given about whether Staying Put payments will be disregarded or considered as income for means tested benefits. These payments may include:
 - Rent payments paid to the carer
 - Payments from the young person to the carer

- Payments from West Berkshire to the carer (made under The Children Act 1989)
- 8.4 A young person may not be able to claim Local Housing Allowance if the Carers are already in receipt of Housing Benefit or Local Housing Allowance to meet their own housing costs.
- 8.5 In circumstances where all the funding for a Staying Put Arrangement comes from the Communities Directorate budget, the payment can be made under Section 24 of The Children Act 1989 or 'Shared Lives'. In these circumstances, a letter should be written to the former carer by the Manager confirming that payments are being made under Section 24 of the Children Act 1989 or 'Shared Lives', and that the payment should be disregarded for income tax and benefit purposes.
- 8.6 Legislation regarding the treatment of payments to the carer is complex, and individual financial circumstances vary, and it may be necessary to advise the carer to seek specialist advice (from Citizens Advice Bureau, for example) about their specific circumstances and the effect of the Staying Put Arrangement on their tax, national insurance, welfare benefits, and working tax credit or child tax credit.
- 8.7 West Berkshire will support carers and ensure that their entitlements are not affected by allowing a young person to 'Stay Put'. In line with guidance from the DWP West Berkshire has distinguished between the four broad groups of carers within the "Staying Put" Scheme:
- a. Carers who are not in receipt of any means tested benefit where setting a commercial rent and young people claiming Housing Benefit would not have an impact on the "Staying Put" carers. In these circumstances young people claim Housing Benefit as a contribution towards the "Staying Put" arrangement for the rent element. The fact that this is a commercial arrangement and the "Staying Put" carers receive part of the payment from section 23C and part from the young person, via contributions, or housing benefit is immaterial as the carer is not claiming benefits.
 - b. Carers who are receipt of Pension Credit where income from 'Boarder' arrangements are disregarded in calculating their entitlement to Pension Credit and Housing Benefit. In these circumstances young people claim Housing Benefit as a contribution towards the "Staying Put" arrangement for the rent element. The fact that there is a commercial arrangement is immaterial as those in receipt of Pension Credit have any income from a 'Boarder' arrangement ("Staying Put") disregarded.
 - c. Carers who are in receipt of a means tested benefit where Children's Services continues to pay the entire allowance to the "Staying Put" carer from section 23C. This is not therefore deemed a commercial arrangement and as the payment is

wholly from section 23C it does not affect or have any impact on the carer's own benefits.

- d. Carers who are in receipt of a means tested benefit where young people claim Housing Benefit as a contribution towards the "Staying Put" arrangement for the rent element and Children's Services provide the remainder from Section 23C, and an additional compensatory payment from section 23C equivalent to the amount of benefit lost by the carers. Whilst this does become a commercial arrangement and carers lose an element of their means tested benefits, the payment made by Children's Services to compensate for the lost amount of benefit will, itself, be disregarded if it is paid from section 23C.

- 8.8 Early planning by the worker and identification of the benefits and financial circumstances of individual carers is critical to ensure that appropriate plans and arrangements are in place for both the carer and the young person.
- 8.9 If the carers are tenants themselves, it is advisable for them to check their tenancy agreement and ensure that their lease allows them to have a lodger. If the carers are mortgage payers it is advisable for them to check whether having a lodger is within the terms and conditions of their mortgage lender and insurer.
- 8.10 It is advisable for carers to inform the Insurance Company providing their household insurance when a young person is no longer a fostered child but remaining in their home as an adult lodger, and to check that existing insurance arrangements still provide adequate household cover under this arrangement. Foster Carers are currently covered for legal protection insurance provided and paid for by West Berkshire Council the case of an allegation made against them by a foster child. Carers must be informed that this legal protection insurance cover does not continue under a Staying Put Arrangement.
- 8.11 Key information and training will be offered to carers in the lead up to a post 18 Staying Put Arrangement. Carers will continue to be registered as carers and under go an annual review and comply with the National Standards.
- 8.12 See appendix 3 for guidance from the DWP and appendix 4 for guidance from HMRC (information accurate as at March 2014).

9. Funding support and funding sources

- 9.1 For West Berkshire carers the total package of financial support will, in the first year, match the foster allowance made to carers however for young people who are moving towards independent living, payment will be on a sliding scale and reduce as the young person becomes more independent. Where appropriate the young person will be expected to make a contribution to their living costs. For young people who are supported by the Council's Disabled Children Team (DCT) individual fees will be

agreed according to their need and the contributions they can make from their payments.

- 9.2 For young people who have specific needs and are in Independent sector fostering rates will be negotiated to reflect the level of support the young person will need. In these cases payment will be approved by the Resource Panel or the Head of Service.
- 9.3 Where the young person is staying put and is receiving Job Seekers Allowance (JSA) or Income Support they will retain this funding and it will be deducted from the carer's payment. This will enable the young person to purchase things that would previously have been included in the fostering allowance, and is intended to enable the young person to develop budgeting skills. This would include clothes and toiletries, and should cover social and leisure activities.
- 9.4 The financial package for the former foster carer from the authority will be equivalent to that received through fostering allowance excluding housing benefit and the JSA or income support allowance which are paid to the young person. Make up of payment and payment scales for local foster placement:

	Up to 18	18 - 19	19 - 20	20 - 21
Fostering	£373.59			
Leaving Care	N/A	£248.67	£198.67	£148.67
Housing Benefit	N/A	£ 68.12	£ 68.12	£ 68.12
Young Person	N/A	£ 10	£ 10	£ 10
Total	£373.59	£326.79	£276.79	£226.79

- 9.5 As set out in 9.1 above payments for young people with disability will be individually arranged and agreed through the Resource Panel.
- 9.6 When a young person is Staying Put they will be responsible for providing their own clothing, toiletries, equipment for college or work and transport, this will be funded through their salary, JSA or education bursary. JSA is currently £56.80, £10 will be paid to the carer towards living costs and the young person will keep £46.45. However if the young person's total average income through benefits, DLA and any work they do exceeds £56.80pw (over a 6 week period) they will be expected to contribute 50% of their income over £56.80 towards the placement costs up to a maximum of £50 per week contribution. Amounts payable would be adjusted if the young person is in receipt of additional income.
- 9.7 The young person can usually claim Local Housing Allowance (LHA) and as a Care Leaver will be exempt from the single room rent restriction. The LHA is usually paid direct to the young person and they will be expected to maintain arrangements to pay this to the former carer.

9.8 If the young person does not make these payments of LHA to the carers:

- It will result in the placement ending
- It may impact on their future ability to claim LHA
- If the failure to pay results in the Staying Put Arrangement being terminated the young person may be considered to be 'intentionally homeless' by the local housing authority

9.9 In certain circumstances LHA can be paid direct to the landlord if the claimant is vulnerable and likely to have difficulty in managing their financial affairs or if the tenant has built up rent arrears of eight weeks or more. (See Housing Benefit Local Housing Allowance Guidance Manual October 2007).

9.10 If the young person cannot claim LHA the Local Authority will compensate by paying an amount equivalent to LHA to the former carers.

10. Administration

10.1 The Pathway Plan should identify an intention to establish a Staying Put Arrangement. A Staying Put Agreement should be completed before the Staying Put Arrangement begins.

10.2 The Service Manager must be informed of and approve payment no less than one month before the young person's 17th birthday. The worker must ensure all financial arrangements are conveyed to accountancy and exchequer. If they young person is deemed vulnerable arrangements should be made to pay housing benefit directly to the carer or Children's Services as agents.

10.3 Staying Put Agreement (See appendix 1) and a Licence Agreement (see appendix 2) should be completed prior to the commencement of the Staying Put Arrangement.

11. Young people's contribution

11.1 If the young person is employed or has an income of more than £53.45 per week (figure accurate as at March 2014) they will be expected to make a contribution to the Staying Put Arrangement. If a young person's income varies on a weekly basis, it may be averaged over a six week period to determine the level of the young person's contribution to the Staying Put Arrangement.

11.2 The young person will keep the equivalent JSA of their income. It is intended that this money will be managed by the young person and used for things like toiletries and clothes, which will previously have been provided for the young person by the foster carer, from the fostering allowance. They would be expected to contribute 50% of the next £100 of their income, up to a maximum contribution of £50 per week.

- 11.3 The worker will continue to encourage the young person to access employment. This may mean the contribution from the community services will be higher as they may be unable to claim LHA.
- 11.4 Where a young person's level of income is so low that they are unable to contribute the former foster carer will suffer no detriment, and if necessary the council will make the provision where it cannot be found from another source.
- 11.5 Financial arrangements will be reviewed at a minimum on an annual basis, or earlier if there is a significant change in financial circumstances.

12. Monitoring and reviewing arrangements

- 12.1 Staying Put Arrangements should, as a minimum, be reviewed every six months. The review will be organised by the social worker and should cover any problems or difficulties which have emerged and also identify what is working well.
- 12.2 A review can be arranged earlier by agreement between the young person, carers, and the professionals involved.
- 12.3 The young person and carers can also access advice at other times from the Leaving Care Worker, Transition Worker and/or Family Placement Support Worker.

13. Ending the Staying Put Arrangements

- 13.1 The Staying Put Arrangements will end when the young person no longer meets the criteria for placement, if the young person breaches the agreement and it can also be ended by the young person or former carer giving relevant notice. Both parties should give as much notice as possible, and this should in most circumstances be a minimum of 28 days notice. The licence agreement allows for the ending of the arrangement with 7 days notice for a breach of the agreement, but this minimum should only be used in exceptional circumstances.
- 13.2 Planning will be undertaken, through the Pathway Plan, to ensure young person can move on into suitable accommodation at the end of Staying Put.

Staying Put Agreement for

Developing Networks of support. Who will be able to help and support in the long term? Groups, Clubs, Religious organisations, individuals.

The young person will:

The Staying Put carer will:

House hold tasks – self help skills, i.e. shopping, cooking, cleaning, laundry, personal hygiene

The young person will:

The Staying Put carer will:

Finance: contributions to the placement, managing a budget, bank accounts, credit cards, loan agreements and mobile phone contracts. Income and benefits.

The young person will:

The Staying Put carer will:

Education, employment and training activities

The young person will:

The Staying Put carer will:

Friends visiting and staying at the address. Staying away for nights/weekends and informing carers of movements.
The young person will:
The Staying Put carer will:
Health arrangements i.e. registered with the doctor, attend appointments at the Edge or CAMHs, visit the dentist.
The Staying Put carer will:
Issues related to younger foster care children in placement, i.e. safeguarding, being a positive role model and time keeping.
The young person will:
The Staying Put carer will:
Non accidental damage in the home, what are the expectations how will the Staying Put host be compensated.
The young person will:
The Staying Put carer will:
Moving on arrangements, tenancy rights and responsibilities, going on the

housing register,

The young person will:

The Staying Put carer will:

Ending the arrangements

The Staying Put Arrangements will end when you are 21 or if break the agreement and it can also be ended by you giving relevant notice. You and you host should give as much notice as possible, and this should be a minimum of 28. If you break the agreement your placement can be ended in 7 days although this is a minimum will only be used in exceptional circumstances.

I agree to the conditions set out in this contract and agree that where appropriate my Staying Put carer and Social Worker can share information about me.

Signed: Date:

Care Leaver

Signed: Date:

Staying Put carer

Signed: Date:

Leaving Care Worker

Signed: Date:

Family Placement Team

Licence agreement

Guidance from - Department for Work and Pensions Definitions

The specific DWP legislation covering “Staying Put” arrangements highlights that (1) where a young person continues to reside with their former foster carer after their eighteenth birthday on a non-commercial and familial basis, and (2) where the child was looked after immediately prior to their eighteenth birthday, and (3) where the payments are made by the local authority to the carer under section 23C of the Children Act 1989, the payments are disregarded in calculating the carers entitlement to means tested benefits.

When a commercial arrangement is made, i.e. any element of the cost of the arrangement comes from a source other than section 23C; the non-section 23C element will be taken into account in the calculation of the “Staying Put” carers own means tested benefit claim.

Additionally, the disregard is lost on the whole payment (section 23C and non section 23C elements) when the young person first leaves the Staying Put arrangement, should the young person return to their former foster carer/Staying Put Carer or, move to another carer after their 18th birthday.

Therefore the DWP Staying Put frame work primarily applies to a young person remaining with their former foster carer on a familial basis, where no commercial arrangement applies and until they first leave the arrangement, or until the age of 21, or until the end of an agreed programme of education or training being undertaken on the young persons 21st birthday if they continuously live in the arrangement.

Benefit Issues for “Staying Put” Carers’

This section covers the rules regarding payments to “Staying Put” carer/s that are in receipt of a means tested benefit/s.

Payments made to the “Staying Put” carers from the Local Authority Children’s Services 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. 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.

Where meals are provided in the “Staying Put” arrangement

Where a commercial arrangement applies and Housing Benefit is paid to the young person based on a rent officer determination, all non-section 23C payments regardless of their source (Supporting People [or successor funding framework] payments, contributions from the young person, including Housing Benefit) will be counted as income under the ‘Boarder’ rules. Under these rules the first £20.00 and 50% of the remainder is disregarded. For

example, if a carer receives £220.00 per week in total for the “Staying Put” arrangement of which £100.00 is paid by the local authority under section 23C, the amount taken into account by the DWP will be £120.00. Of the £120.00, £20.00 and a further £50.00 (50%) is disregarded, therefore the carer will be deemed to have a £50.00 per week income from the ‘Boarder’ (“Staying Put”) arrangement and they will lose £50.00 of their benefit. This arrangement would apply to each young person if two or more young people aged eighteen or over remain in the placement.

Note:

The local authority could make a compensatory payment of £50.00 from section 23C (that would be disregarded by the DWP) which would negate the loss of the carer’s benefit.

Non-Dependent Deductions

In certain circumstances where a “Staying Put” carer is in receipt of Housing Benefit a Non-dependent Deduction may apply in respect of the “Staying Put” young person. Non-dependent Deductions are normally applied to a person’s Housing Benefit claim in relation to people who are working and have an income. The level of non- dependent Deduction would relate to the income of the young person. This would still be the case if the Local Authority the Staying Put carers the full cost of the arrangement from section 23C and the young person does not make a contribution to the cost of the arrangement , either through Housing benefit or personal contribution. It is also important to note in this circumstance that if the young person claims housing benefit, or makes a contribution to the Staying Put arrangement it would become a commercial arrangement and the income would be treated as ‘Boarder or Sub-tenant’ income on the non section 23C element.

Young people aged 18 – 25 in receipt of Income Support, income based JSA and income related Employment and Support Allowance are unlikely to have a NND applied to their ‘Staying Put Carers Housing Benefit claim.

Pension Credits

Where the “Staying Put” carer is over the pension credit age (the pension credit entitlement age is rising from 60 to 65 between 2010-2020) and is in receipt of Pension Credit more generous disregard rules regarding income from ‘Boarder Arrangements’ apply and should be explored. In practice, the whole amount paid (in respect of a ‘Boarder Arrangement’ to the carer in receipt of Pension Credit is likely to be disregarded, regardless of the young person claiming Housing Benefit and the source of the payment.

The Treatment of Benefits

Payments from Children’s Services to young people under section 17, section 20, section 23, section 24 and section 31 (Children Act 1989) do not count as income for benefit purposes. Payments made to young people and passed to former foster carer/s from section

23C (Children Act 1989) are disregarded in the assessment of the former foster carer/s' income for benefit purposes, if the young person was formerly in the claimant's care, is aged 18 or over and continues to live with the claimant within a non-commercial family type arrangement. If the arrangement is a commercial one the section 23C disregard ceases on any non-section 23C disregard ceases on any non-section 23C element of the source of payment.

Council Tax and Council Tax Benefit

The position regarding Council Tax will vary depending on the circumstances of the carers, the number of adults in the household and the activity that the young person is engaged in. Within local authorities' "Staying Put" policies, the treatment of council tax liability and council tax benefit will need to be addressed.

- Young people undertaking full time education are 'invisible' for council tax purposes.

In circumstances where "Staying Put" carers qualify for a 25% single person reduction or full Council Tax Benefit and the situation of the young person has an impact on the discount or Council Tax Benefit, the local authority policy will need to set out how this change will be addressed, dealt with and/or impact on the "Staying Put" payments to carers. From April 2013 national Council Tax Benefits will be abolished and will be replaced by a council tax reduction scheme administered by, and reflect, individual local authority priorities.

Guidance from - HM Revenue and Customs Definitions

HMRC have defined “Staying Put” more broadly than the DfE and DWP to ensure compatibility with legislation covering all four countries within the United Kingdom. This can be advantageous to both carers and young people where a young person wishes to return to the same or, another arrangement after they left their original “Staying Put” arrangement.

The term “Staying Put” (HMRC) is therefore used to define arrangements where:

1. A young person was looked after immediately prior to their eighteenth birthday;
2. The young person has a Pathway Plan;
3. A proportion of the allowance paid to the “Staying Put” carer/s is paid by the Local Authority;
4. “Staying Put” arrangements can extend until:
 - the young person reaches their twenty-first birthday;

or

- the young person completes the agreed programme of education or training being undertaken on their twenty-first birthday.

Some slightly different rules also apply to ensure arrangements in Scotland are catered for.

Note:

This broader HMRC definition would allow for a young person to return to an arrangement (“Staying Put”) for example during a university vacation. Additionally, all other HMRC requirements would need to be met, i.e.:

- the young person was looked after immediately prior to their 18th birthday;
- the young person is aged 18 to 21, or, if 21 or over is continuing a programme of education or training;
- the young person has a pathway plan;
- a proportion of the allowance is paid for by the local authority.

This broader definition can therefore mean that any person/carer can be defined as a Staying Put carer, from an HMRC, perspective, in circumstances when the 4 criteria above are met. The carer does not need to be a registered foster carer or former foster carer. In circumstances where Children’s Services define a person as a Staying Put carer, by paying them an allowance, as in the above situation, the responsible local authority will need to ensure the appropriate safeguarding arrangements are appropriate to meet the young person’s needs and that the monitoring and support for the Staying Put carer is also satisfactory.

Income Tax and National Insurance

The rules governing Income Tax and National Insurance issues for former foster carers changed on 6th April 2010 from Adult Placement Care arrangements to Qualifying Care Relief Shared Lives Carers' arrangements.

HMRC has confirmed that where a "Staying Put" arrangement meets the qualifying criteria as set out in the 'Terminology Section' (and where the young adult continues to be cared for as a member of the carer's family) it will be treated under the new Qualifying Care Relief 'Shared Lives Carers' rules. In effect, these rules extend the Income Tax and National Insurance rules that apply to foster carer/s to "Staying Put" carers.

In order to qualify for the HMRC Qualifying Care Relief – 'Shared Lives Arrangements' young people are required to 'share the individual's ("Staying Put" carers) home and daily family life during the placement' i.e. live as a 'member of the carer's family' If the "Shared Lives Arrangements" do not apply, the "Rent a Room" rules may apply or the normal tax rules will apply.

"Staying Put" carers will be covered by the Qualifying Care Relief system where they provide a "Staying Put" arrangement for a young person who was looked after immediately prior to the young person's 18th birthday. Qualifying Care Relief can continue until the young person reaches the age of 21, or, until they complete a programme of education or training. A young person below the age of 21 does not have to be engaged in education or training for the Qualifying Care Relief system to apply to their carers.

The Qualifying Care Relief system provides for foster carer/s and/or "Staying Put" carer/s to earn up to a given amount without paying Income Tax or Class 4 National Insurance Contributions on their caring income. The Income Tax free allowance consists of two elements. Firstly, a fixed amount per foster care or "Staying Put" household per year (for 2013 -2014 this is set at £10,000). Secondly, an additional amount per week per child (£200 per week under the age of eleven [0-10], £250 per week age eleven to their eighteenth birthday [11-17] 2013-2014) and £250 per week per adult aged eighteen to twenty-first birthday [18-20] or until the end of the programme of education or training, as defined as "Staying Put" by HMRC (see terminology section).

The £10,000 per year applies once per household regardless of how many foster children or "Staying Put" young people are placed. The additional amount applies per child/young person per week. Where there is more than one paid "Staying Put" carer in the household, the allowance is shared equally by both carers.

The tax free allowance is only available to households with three or fewer placements. However, foster care placements are excluded for this purpose, and sibling groups are counted as one placement.

The tax free allowance only applies to the "Staying Put" carer's income from caring. If they have income from other sources, they will pay tax on that income in the normal manner.

If the “Staying Put” carer/s exceeds the allowance they will have a choice of using the ‘simplified’ method or the standard profit and loss method to calculate their taxable profits. The carer/s will also be liable to pay Class 4 National Insurance Contributions on their taxable profit. Under the simplified method, a carer’s taxable profit is the income they receive from caring which exceeds their tax free allowance. Where foster carer/s or “Staying Put” carer/s do incur an Income Tax and Class 4 National Insurance liability and they have not used their personal allowance this can be used to off-set this liability.

If the carer/s have claimed the tax free allowance (used the simplified method), they may not also claim the ‘Rent a Room’ relief.

Individual carers can consult their local HMRC office for guidance on their circumstances and liabilities.

In practice HMRC will treat the taxable profit from foster care or “Staying Put” care as earnings from self-employment for National Insurance Contributions purposes.

“Staying Put” carer/s as well as foster carer/s should note that they may be able to claim Working Tax Credits which are administered by HMRC. Fostering/”Staying Put” care is counted as work for Working Tax Credit purposes. The carer’s taxable income is included in the total household income that is used to assess the amount of tax credits that they are entitled to. So, where the carer is paid less than their tax free allowance, their income from caring for tax credits purposes is also nil.

HMRC is aware that a number of foster carers and ”Staying Put” carers may not have registered for Class 2 National Insurance Contributions because they make little or no taxable profit. Foster care and “Staying Put” care is deemed as self-employment and as such carer/s should register as self-employed. All self-employed people aged 16 and over who are below State Pension age are liable and must register to pay Class 2 National Insurance Contributions. Failure to do this may affect their entitlement to Employment and Support Allowance, Maternity Benefit, State Pension and Bereavement Benefit. However, self-employed carers may be able to apply for Carers Credits which have replaced Home Responsibilities Protection, and those with low taxable profits may be able to apply for a Small Earnings Exemption.

To claim a carers credit, foster carers/”Staying Put” carers must complete form CF411A available from HMRC (www.hmrc.gov.uk).

If carers have not previously registered as self employed they can obtain further information by calling the Newly Self-employed Helpline on **0845 915 4515**.