**Derby City**

**Staying Put Policy**

**2023/34**



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**Introduction**

To meet commitments and duties towards care leavers in the Children and Young Persons Act 2008, the Care Planning, Placement and Case Review Regulations and Guidance 2010, the Planning Transition to Adulthood for Care Leavers Regulations and Guidance 2010 and the Children and Social Work Act 2017, an emphasis has been placed on a graduated approach to planning transition to adulthood.

A duty was imposed on local authorities by virtue of Section 98 Children and Families Act 2014 which inserted Section 23 CZA into the Children Act 1989 which requires a Local Authority to facilitate, monitor and support staying put arrangements. This duty came into effect on 13 May 2014.

The average age of leaving home is rising and the transition to adulthood is increasingly becoming more complex and elongated. The Staying Put policy framework requires local authorities to set out local arrangements for extending foster placements as “Staying Put” arrangements to extend young people’s transition to adulthood within a family and household supported environment. The intention is to ensure young people can remain with their former foster carers until they are prepared for adulthood, can experience a transition akin to their peers, avoid social exclusion and be more likely to avert a subsequent housing and tenancy breakdown.

Derby City Council is committed to preventing social exclusion amongst care leavers and has developed the following Staying Put policy to ensure they can continue to live with former foster carers where this is assessed as being in their best interests after their 18th birthday and make the transition to independent living at a pace that suits their needs.

The policy sets out:

1. The process for extending a foster care placement beyond a young person’s 18th birthday into a Staying Put arrangement and for review of these arrangements.
2. The financial requirements and benefit issues for young people.
3. The financial rates and payment implications for foster carers and Staying Put carers.
4. The welfare benefit issues for foster carers and Staying Put carers.
5. The income tax and national insurance implications and issues for foster carers and Staying Put carers.
6. The social care requirements and practical issues associated with extending fostering arrangements as Staying Put arrangements.

This “Staying Put” policy has been developed to address the requirements of the:

* Children and Families Act 2014.
* Care Planning, Placement and Case Review (England) Regulations and Guidance 2010.
* Planning Transition to Adulthood for Care Leavers (England) Regulations and Guidance 2015; Volume 3.
* Fostering Service (England) Regulations 2011 and related Guidance.
* National Minimum Standards (NMS) for Fostering Services (2011), Planning Transition to Adulthood for Care Leavers Regulations and Guidance 2015 and the Fostering Service (England) Regulations 2011 set out a requirement that each Local Authority has a Staying Put policy and Standard 12.4 of the National Minimum Standards sets out the service standard relating to Local Authorities’ Staying Put policy.

**Staying Put Definitions**

**Department for Education Definitions**

The term Staying Put is used to define the following arrangements where:

1. A young person who was looked after immediately prior to their eighteenth birthday (as an eligible child) continues to reside with their former foster carers.

2. The carers were acting as foster carers to the child immediately prior to the young person’s 18th birthday (that is, the carers were approved as foster carers in accordance with the Fostering Service (England) Regulations 2011 and the child had been placed with them by the Local Authority, or via an Independent Fostering Agency).

3. The young person is deemed an eligible child, within the meaning of paragraph 19 B (2) of Schedule 2 to the Children Act 1989, immediately before they reached eighteen.

4. The Local Authority considers the Staying Put arrangement is consistent with the welfare of the young person.

5. The staying put arrangement is set out in the young person’s Pathway Plan.

6. A proportion of the allowance paid to the “Staying Put” carers is paid by Local Authority Children’s Services under section 23C of the Children Act 1989.

7. The “Staying Put” arrangement extends until:

* the young person first leaves the Staying Put arrangement, or
* the carer ends 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.

**Department for Work and Pensions Definitions**

The specific DWP legislation covering Staying Put arrangements highlights that:

* Where a young person continues to reside with their former foster carer after their eighteenth birthday on a non-commercial and familial basis, and
* Where the child was looked after immediately prior to their eighteenth birthday, and
* 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.

Where part of the payment for the Staying Put arrangement comes from a contribution from the young person (as a payment for rent, either directly or from Universal Credit) the non-section 23C element will be considered in the calculation of the “Staying Put” carers own means tested benefit. However, this does not apply if the carer is receiving Universal Credit or Pension Credit or pension age Housing Benefit.

Additionally, the section 23C 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 Staying Put carer or move to another carer after their eighteenth birthday.

**HM Revenue and Customs Definitions**

The term Staying Put (HMRC) is 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 carers 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.

**Definitions Overview**

Where possible; DfE, DWP and HMRC definitions and frameworks relating to Staying Put have been harmonised. However, given the complexity of the three different legislative frameworks relating to Staying Put arrangements, and the fact that some of the legislation does not cover all four countries in the United Kingdom, this has not been wholly possible.

**Derby Staying Put Scheme**

The primary aim of Staying Put is to promote a gradual transition from care to adulthood and independent living that recognises many young people in care often experience delayed maturity, and that their 18th birthday may be an arbitrary and inappropriate point to leave a familial and foster care household. Therefore, the Derby Staying Put scheme is designed to ensure young people do not experience a sudden disruption to their living arrangements, that educational and training achievement and continuity is promoted, and that all young people can make a gradual transition from care to independence or to an Adult Service.

The opportunity to take up a Staying Put arrangement is open equally to both young people who have been cared for by in house Derby City foster carers and those who have been placed with Independent Fostering Agency carers, with the payment rate (for former Foster Carers) being aligned for all Staying Put arrangements to the Derby City Council Staying Put fostering fee rate.

The Staying Put arrangement can continue until the young person leaves the placement (if before 21), reaches the age of 21 or completes the programme of education or training being undertaken on the young person’s 21st birthday, or sooner if it is in the young person’s best interests and they have been assessed as ready to move on to independent living or other post 18 living scheme.

**Shared Lives**

For some children with additional needs who are making the transition to adulthood, specifically where the young person has a diagnosed disability and eligible needs under the Care Act 2015, they can be referred to Adult Social Care, (for a Care Act Assessment). This assessment will be based upon the Young Person’s needs.

The Care Act assessment will identify the eligible needs and support that can be offered by Adult Social Care from the age of 18. For people with significant and complex disabilities the assessment may recommend 24-hour support. For others it may provide advice, guidance or offers of support to complement the wider support offer arising from education or care leaving regulations. The adult care assessment, advice, guidance, and recommendations should be used to inform the Pathway Plan.

If the Care Act assessment identifies the need for 24 hours support the PFA worker will look at options for accommodating the person. This may be the use of Shared Lives, supported living or residential care. The PFA worker will take the lead in identifying possible options and ensure that the children’s worker and LAC review are kept up to date with progress.

It is not automatic that the young person’s foster carers would become the young person’s shared lives carers if the need for 24-hour support was identified. Shared Lives placements are reviewed on an annual basis and are not a long-term provision. There is an expectation that the carers will enable and develop the young person to move on towards independent living.

Like Staying Put, Shared Lives requires a financial contribution from the young person.

If the adult care assessment does not identify the need for 24-hour support, alternative options need to be considered by the children’s Social Worker, allocated Leaving Care Service Personal Advisor (if allocated by that stage) and Adult Social Worker (if allocated) in line with the processes described later in the policy.

**Higher Education**

Where both the young person and Staying Put carer agree, a Staying Put arrangement can be put in place where the young person is attending university, whether they study from ‘home’, staying in the arrangement on a full-time basis, or study away from ‘home’, returning to the arrangement during vacations. The Staying Put arrangement can extend until the young person completes their programme of education or training (including University courses), where the course extends beyond a young person’s 21st birthday.

Staying Put arrangements can also be put in place where the young person is in other forms of residential education and training which require them to live away from their arrangement.

**Allowances**

To create parity with other care leavers, birthday, festival allowances and holiday allowances cease once a young person reaches the age 18 (the 18th birthday allowance is covered by the fostering policy). From the young person’s 18th birthday these payment areas are covered by the Derby Leaving Care Policy.

Any additional funding requirements relating to family contact, specific activities, and health needs for individual young people in Staying Put arrangements will be met by the Leaving Care Team as set out in the young person’s Pathway Plan.

Staying Put carers should continue to provide the same level of support and services to the young person as they did when they were a foster child. The support provided should be set out in the young person’s Pathway Plan.

As set out above all young people are required to claim a personal benefit, which they will be expected to use for clothing, pocket money, toiletries etc. which carers will no longer be expected to provide post 18. Young people may also use part-time earnings to cover these outgoings.

Young people will be expected to claim Universal Credit (Housing element), which will be used to cover the rent element of Staying Put payments to carers and to make a £20 per week contribution towards food/utilities.

Earnings over a certain amount will result in a reduction of Universal Credit (Housing element), which will need to be made up by a contribution by the young person.

**Staying Put with extended family**

Young people living in foster care placements /Staying Put arrangements with sisters, brothers and certain extended family members who are formally approved as foster carers are not eligible to claim Universal Credit (housing element) on reaching the age of 18. In situations where a young person is not eligible for help with their rent payments via Universal Credit, Derby CYP will pay the rent/accommodation element of the Staying Put arrangement.

To help ensure that reaching age 21 does not become another cliff edge, but is a gradual transition to independent life, the Council’s Leaving Care Team will work with the young person to provide support and advice.

**Terminology**

From age of 18 young people are no longer legally ‘in care’ or ‘looked after’ and therefore fostering arrangements and legislation relating to children placed with foster carers no longer apply. In circumstances where a young person remains with their former foster carer/s after their 18th birthday, the arrangement should therefore be deemed a Staying Put arrangement. The term ‘arrangement’ should be used rather than placement; the term ‘placement’ denotes a situation where the Local Authority arranged and placed the child with a foster carer. Once the child reaches the age of 18 and legal adulthood, the Local Authority is no longer making a placement, but facilitating a Staying Put arrangement for the young person.

**Changing Status - Foster Care Placement to Staying Put Arrangement**

Following a young person’s 18th birthday, the legal basis on which they occupy the property (former foster care home) changes and they become an ‘excluded licensee’ who is effectively lodging in the Staying Put carers’ home. Whilst the term ‘excluded licensee’ is a legal one, it should not denote that the young person will be treated differently than they were as a fostered child. In addition, the carer may also become, and be deemed the young person’s landlord/landlady.

The associated change from foster child to adult member of the household, and for the carer from foster carer to Staying Put carer, (technically the young person’s landlord/lady) should be carefully and sensitively planned to ensure that both young people and the carer understand the nature of the arrangement and that the positive aspects of being in foster care are not diminished by the new legal and financial arrangements and terminology.

An excluded licensee can be asked to leave the property by the Staying Put carer, who must give reasonable notice. In extreme circumstances it may be considered reasonable for the Staying Put carer to give very short notice and ask the young person to leave on the same day. In other circumstances both parties, i.e., the young person and Staying Put carer will give 8 weeks’ notice of their intention to leave/end the arrangement.

**Procedure for Extending a Foster Care Placement into a Staying Put Arrangement**

The Leaving Care Assessment of Need begins at the age of 15¾, this should identify the timescale required for young people to move to independence and should be used as the framework for beginning to explore the following questions and issues:

1. Is it likely that the young person would benefit from a Staying Put arrangement when they reach their 18th birthday? Or are there more suitable alternatives for that specific young person that would help them to achieve independence? In considering this, Children’s Social Workers and Leaving Care Personal Advisors should assess young people’s needs and abilities against the set list of tasks required for living independently and consider whether supported accommodation (with support hours to work on life-skills development), supported lodgings or Shared Lives are more aligned to the best interests and broader welfare needs of that young person.

2. Does the young person understand the range of realistic and suitable alternative options they have for accommodation post 18, based on what the Children’s Social Worker/Leaving Care Personal Advisor have assessed regarding their specific independence skills/abilities? To help them make informed choices about their options.

3. Are the young person and their foster carers in agreement to a Staying Put arrangement?

4. Do the young person and their foster carer/s understand the procedures and requirements for extending a foster care placement into a Staying Put arrangement?

5. Does the young person understand their financial and benefit responsibilities associated with remaining in a Staying Put arrangement?

6. Do the foster carers understand the changes in their funding arrangements associated with a Staying Put arrangement?

7. Do the foster carers understand the impact of a Staying Put arrangement on their welfare benefit income and on their Income Tax and National Insurance responsibilities and liabilities?

8. What is the contingency plan for the young person should the Staying Put arrangement not be viable?

9. What are the preparation for independence tasks, goals, and targets to be achieved during the last two years of foster care and when the placement becomes a Staying Put arrangement?

10. What is the plan for converting the Staying Put arrangement into an Adult Placement (Shared Lives) where the young person has a disability and meets the Adult Services criteria?

To ensure sufficient time is available to make the necessary planning arrangements for extending a placement beyond a young person’s 18th birthday, a professionals meeting should take place as part of the Leaving Care Assessment of Need (Pathway Plan Part 1) immediately prior to the young person’s 16th birthday.

The Children in Care Service will (via the DHOS) identify all young people at the start of each quarter who will attain age 16 and who have been identified for a Staying Put arrangement and pass this on to the Leaving Care Team Manager to identify a representative from that service to attend the Staying Put meeting.

The Staying Put meeting should include the foster carers, supervising social worker, Children’s Social Worker and a Leaving Care Service representative and should establish the viability and likelihood of a Staying Put arrangement occurring.

The meeting should identify all tasks required to extend the fostering placement into a Staying Put arrangement and apportion roles and responsibilities. The meeting should explore the impact on the foster carers’ financial circumstances should the arrangement continue after the young person’s 18th birthday.

Young people should not be included in the initial meeting and planning process and should only be included after their foster carers have confirmed they are able to retain the young person under a Staying Put arrangement once the young person reaches the age of 18. This is required to ensure the stability of the placement and to avoid unsettling the young person.

The Staying Put professionals meeting should be repeated before the young person reaches the age of 17 years and 6 months and should ensure that any final arrangements and requirements are in place by the young person’s 18th birthday.

The outcome of the meeting should be discussed at the young person’s subsequent statutory LAC review and the decision ratified by the Independent Reviewing Officer. The outcome of the meeting and decision of the Statutory Review should then form the basis of the report presented to the Head of Service (at the Permanence Panel) when the young person reaches the age of 17½. The Head of Service is responsible for any decision regarding extending a fostering placement into a Staying Put arrangement via the Derby City Permanence Panel.

Once agreed at Permanence Panel, the Staying Put arrangement can extend until the young person moves to their independent tenancy or reaches their 21st birthday (or until the education or training course being undertaken on their 21st birthday is completed).

The length of a Staying Put arrangement will be agreed at the Permanence Panel between the HOS and Team Manager (Leaving Care Service). Review of the arrangement will take place between the young persons allocated Personal Advisor and their Team Manager in supervision sessions and extensions (to the Staying Put arrangement) will only be agreed by the HOS on application (to Permanence Panel) by the Team Manager (Leaving Care Service) using an updated Staying Put application form.

It will be expected that extension requests outline why the SMART targets set out in the Living Together agreement have not been met and the actions with timescales these are now expected to be met by and the plan for supporting the young person into independent living.

All meetings should refer to the reason for the Staying Put arrangement, i.e., is this what the young person and carer/s want/is this the best way of helping the young person achieve independence and the practical requirements associated with Staying Put and the National Insurance, Income Tax and Welfare Benefits issues for the foster carers and the Welfare Benefit issues for the young person.

Where a young person enters university or other residential education or training after the Staying Put arrangement has started and this circumstance was not planned for and agreed before the arrangement started, a review will take place to establish the wishes of the young person and Staying Put carer. Where both parties wish the arrangement to continue, a revised plan will be agreed and put in place. Agreement of this will be made at the Permanence Panel by the HOS and Leaving Care Service Team Manager on application by the young persons allocated Personal Advisor using an updated Staying Put application form.

The Council recognises the valuable role foster carers will take on when they become Staying Put Carers and that the skills and support, they need is likely to be different to that they needed as foster carers. The Council has put in place training and support mechanisms to support Staying Put Carers. The individual training and support needs of carers will be discussed and agreed as part of the process of setting up an arrangement.

**Information to be presented to the Head of Service**

The following information should be presented to the Head of Service when the child reaches the age of 17½ (at the Permanence Panel) setting out the purpose and aims of the Staying Put arrangement and any milestones, targets, and outcomes:

* Staying Put proposal (Using Staying Put application form)
* Copy of latest Pathway Plan. The overall purpose and aims should be set out in the young person’s Pathway Plan
* Day-to-day arrangements for supporting the young person should be set out in their Living Together Agreement, which is an extension of the Placement Plan.
* Information on tasks, roles and responsibilities should include:
* Arrangements for supporting the young person to claim any benefits they are entitled to and who will assist them with this task.
* Arrangements for supporting and promoting education and training.
* Transition arrangements to an Adult Service and a Shared Lives Scheme (where applicable)
* The anticipated length of the Staying Put arrangement and the anticipated move-on arrangements.
* What preparation for independence tasks need to be undertaken and what improved life skills are anticipated by extending foster care as a Staying Put arrangement?
* What are the safeguarding arrangements for the young person, any foster children in placement and the children of the foster carers; has a DBS check been started or completed, is it anticipated that a risk assessment will be required?
* Where a young person is Staying Put in an arrangement outside of the Derby area, will they return to Derby or move to the private sector where they live?
* Any specific vulnerabilities and needs of the young person.
* Support and training to be put in place for Staying Put carer.
* All the above must include clear timescales for completion of tasks

Information should include the views of the foster carer, young person and IRO and any specific financial issues related to the carer.

**Ending Arrangements**

The Pathway Plan will contain an expected end date for the Staying Put arrangement/move in date for the young person.

Where the young person wishes to end the arrangement early, they should contact their Personal Advisor in the first instance, giving as much notice as possible. The PA and Leaving Care Team will investigate with the young person their reasons for wishing to end the arrangement early. If the arrangement is still going to end early after this discussion, the PA will then work with the young person to put in place alternative arrangements and a revised Pathway Plan.

Where the Staying Put carer wishes to end the arrangement early, they should contact their responsible worker or the young person’s Personal Advisor giving as much notice as possible. The PA will investigate with the carer their reasons for wishing to end the arrangement early. If the arrangement is still going to end early after this discussion, the PA will work with the Staying Put carer and young person as appropriate, so that alternative arrangements can be put in place for the young person. In these circumstances, the Local Authority would expect a minimum notice period of 28 days.

In exceptional circumstances where it emerges that the Staying Put arrangement is no longer consistent with the welfare and best interests of the young person, the Council reserves the right to withdraw funding and support and if possible, put alternative arrangements in place through the Leaving Care Team.

In extreme circumstances it may be considered reasonable for the Staying Put carer to give very short notice and ask the young person to leave on the same day.

**Financial Requirements and Universal Credit for Young People**

Young people remaining in a Staying Put arrangement are expected to claim Universal Credit for their personal needs from their 18th birthday (from age 16, where possible). These benefits should be used by young people for items such as clothing, pocket money, toiletries etc. and carers should not be providing a personal allowance to young people to reflect the developing need for independence for young people of this age

Receipt of Universal Credit should not affect the Staying Put carer’s means tested benefits, should they be claiming a means tested benefit.

Young people commencing Higher Education courses at any age are not eligible to claim Universal Credit, except for certain lone parents and sick and disabled young people.

Funding and income for young people attending university and other agreed residential education or training is covered under the Derby Leaving Care Policy financial arrangements.

These arrangements will apply to young people in Staying Put arrangements.

**Payment Rates to Derby Staying Put Carers**

Derby Children’s Services is committed to ensuring foster carers receive financial support that covers all the reasonable costs of supporting a former foster child under a Staying Put arrangement.

Whilst the Staying Put carer will receive a level of income equivalent to the Derby City Council fostering allowance, which is £271.30, some of the income under the Staying Put arrangement will come from the young person in the form of a payment for their rent, which may come via Universal Credit (Housing element) from the DWP or their earnings.

The fostering allowance for a Staying Put arrangement will not include a payment for skills element for either in house carers or carers from an Independent Fostering Agency, recognising the reduced level of support that will be required for this cohort of young people due to their age. The allocated Social Worker will need to explain this to the carers offering Staying Put and that their Fostering Maintenance Allowance will be reduced but:

Some of the income under the Staying Put arrangement will come from the young person in the form of a payment for their rent, which may come via Universal Credit (Housing element) from the DWP or the young person’s earnings and

That they will not be expected to provide personal and clothing allowances to the young person, as the young person’s benefit (Universal Credit), or earnings from employment will replace this element, as from the age of 18 (16 in certain circumstances) young people are eligible to claim a welfare benefit which will replace the amount previously provided by their carer.

The young person is also expected to contribute for food and service charges from their income, which is presently set in Derby as £20 per week.

Where the young person in a Staying Put arrangement is attending university and living with their Staying Put Carer full time, the Staying Put Carer will receive the Staying Put Allowance. The young person will be expected to find the amount of cost usually covered by the housing element of Universal Credit from their Maintenance Grant/loan and other funding. The Council may contribute to the young person’s contribution if appropriate. On starting university, the Council will assess the grants and funding to be received by the young person and draw up an agreement between all parties setting out the financial arrangements to be put in place.

Where a young person in a Staying Put arrangement is attending university in another part of the country and returns to their Staying Put Carer during the vacations and occasional weekends, the Staying Put carer will receive the Staying Put Allowance for the time that the young person is living with them, including an agreed number of nights outside the vacations. As above, on starting university, the Council will assess the grants and funding to be received by the young person and draw up an agreement between all parties setting out the financial arrangements to be put in place.

Where the young person is in another form of agreed residential education or training, the Staying Put carer will receive the Staying Put Allowance for the period the young person is living with them. In these cases, the Council will assess the grants, income, and funding to be received by the young person and draw up an agreement between all parties setting out the financial arrangements to be put in place.

**Section 23C Payments and Benefit Issues for Staying Put Carers**

This section covers the rules regarding payments to Staying Put carers who are in receipt of means tested benefits.

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 carers on behalf of the young person are disregarded when calculating the carer’s entitlement to means tested 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 help with their housing costs via Universal Credit (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 to the carers from a source other than the section 23C element (those made by the Local Authority) is considered when calculating the impact on the Staying Put carers own means tested benefit claim.

The section 23C element will always be disregarded when calculating the Staying Put carer’s means tested benefit entitlement.

Where Universal Credit (housing element) is paid to the young person, or they pay the rent element from their earnings, all non-section 23C payments (those made by the Local Authority) regardless of their source will be counted as income under the ’Boarder’ rules. Under these rules the first £20.00 and 50% of the remainder is disregarded. This arrangement would apply to each young person if two or more young people aged eighteen or over remain in the placement.

In these situations, where the Staying Put carer is in receipt of a means tested benefit the young person should still claim Universal Credit, an amount equivalent to the carers DWP benefit reduction will be paid to them from section 23C. The section 23C compensatory payment will be disregarded in full by the DWP.

Where the Staying Put carer is over the pension credit age (the pension credit entitlement age is 66) 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 help with their housing costs via Universal Credit and the source of the payment to the carer.

**Council Tax, Council Tax Support and Non-Dependent Deductions**

1. From April 2013 Council Tax Benefit was replaced by Council Tax Support schemes that reflect individual Local Authority priorities and are administered through local rules.

2. The impact of the Staying Put arrangement on Staying Put carers Council Tax and Council Tax Support will depend on both the circumstances of the Staying Put carer and the young person. For example, full time students are ‘invisible’ for Council Tax purposes and will not have any impact on the Staying Put carers Council Tax or Council Tax Support.

3. In circumstances where a Staying Put carer is working and in receipt of the 25% single person Council Tax reduction, this discount may continue when a Staying Put young person is living in the arrangement. The continuation of the 25% discount will depend on the circumstances of the young person.

4. Where Staying Put young people are claiming Universal Credit, a Non-dependent Deduction should not be applied to the Staying Put carers own means tested benefit claim if the young person is receiving Universal Credit on the basis that they have no earned income.

5. When planning for a Staying Put arrangement, consideration should be given to the impact of the arrangement on the Staying Put carers Council Tax, Council Tax Support and whether a Non-dependent Deduction will be applied. In circumstances where an increase in Council Tax occurs; a reduction in Council Tax Support applies, or a Non-dependent Deduction is applied, an application should be made to the Deputy Head of Service Fostering for a payment from section 23C equivalent to the carer’s financial loss.

6. Staying Put carers will not be affected by the removal of the spare room subsidy when the Staying Put young person lives with them.

**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 Universal Credit 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 (i.e., if the young person contributes to the arrangement by paying rent) the section 23C disregard ceases on any non-section 23C element of the payment.

**Income Tax and National Insurance Issues for Staying Put Arrangements**

The Fostering Network will provide guidance on income tax and national insurance issues pertaining to Staying Put arrangements.

**Staying Put - Social Care and Regulatory Frameworks**

Where a young person reaches the age of 18 and fostered children are also living in the placement, all aspects of the legislation relating to fostering continue to apply and govern the regulation of the household.

The major change being that the previously fostered child (from age 18) becomes a “Staying Put” young person and therefore an adult member of the household. As such the young person (moved to Staying Put arrangement) will require:

* A Disclosure and Barring Service (DBS) check, previously called a CRB check (and a risk assessment if the DBS check highlights a ‘trace’ [potential risk].
* In Derby a DBS check should be undertaken and completed:
* on all children of foster carers or “Staying Put” carers when the child reaches the age of 16.
* on all fostered children reaching the age of 16.
* to ensure DBS checks have been completed by the young person’s 16th birthday, these will need to be planned (from 15½).

From the age of 18 the requirement for a young person to have a placement plan that sets out the day-to-day arrangements for the placement ceases; the placement plan should be converted to a ‘Living Together Agreement’ which sets out the practical Staying Put arrangements with clear SMART targets.

In addition, the plan for the fostered young person and foster carer/s will be discussed at the annual review prior to the young person becoming 18, with a review report presented to the fostering panel for a change of circumstances (new adult member of the household – Staying Put young person), in anticipation of the change of status.

Fostering panel will need to give due consideration to the impact of the Staying Put arrangement on the foster carers’ terms of approval, including the numbers approved for, and whether this number includes the “Staying Put” young person.

Should any issue arise from a DBS check and associated ‘risk assessment’, the Social Worker would need to have an immediate discussion with their manager to assess what actions needs to be taken to safeguard any foster children, or children of the foster carer/s living in the household.

**Where no Fostered Child/Children are living in the Staying Put Arrangement**

Whist fostering regulations no longer formally apply when a young person reaches the age of 18, the following requirements and standards will continue to govern the Derby Staying Put arrangements in circumstances where no fostered child/children are living in the household:

* The placement plan which included the roles, responsibilities and the expectations of the foster carer and the young person should be converted into a ‘Living Together Agreement.
* A return to fostering panel to discuss changes in the household arrangements and any plans for future de-registration and/or agreeing a period of fostering inactivity if a carer is not taking any further fostering placements (on a temporary or permanent basis).
* An annual review of the “Staying Put” carer and the overall arrangement.
* Safeguarding and risk assessment checks on household members and regular visitors.
* Health and safety checks.
* Regular supervision from the supervising fostering officer for the 1st year of the Staying Put arrangement and longer if appropriate or required.
* The opportunity to attend appropriate training and support groups.

In circumstances where “Staying Put” carers only have an 18-year-old, (or older) “Staying Put” young person living with them, the supervising social worker will need to assess individual circumstances and consider the appropriateness of all the above checks, particularly where it is envisaged that no further foster children will be placed in the future.

**Minimum Standards and Practical Requirements**

In situations where no foster children live in the placement and a decision is taken to terminate/deregister the Staying Put carers fostering registration, the overall arrangement then comes within the ‘Suitable Accommodation’ framework as set out in the Planning Transition to Adulthood Guidance, which includes the Care Leavers (England) Regulations 2010 and must comply with Regulation 6, 7 & 9, and Schedule 2.

Staying Put carers should ensure they inform their mortgage provider or landlord and their buildings and contents insurance provider that they will continue to be supporting a former foster child as a young adult under a “Staying Put” arrangement. Failure to inform the above may cause a breach of mortgage/tenancy requirements and may result in insurance cover being void due to a ‘failure to disclose material facts.

Staying Put carers who transport young people are required to apply the same level of standards and care when transporting “Staying Put” young people as they did when they were transporting a foster child, i.e., comprehensive business insurance, a valid MOT, a valid Road Vehicle License, and a road worthy vehicle.

Staying Put carers continue be covered under Derby City Council Insurance Policy in the same way as Foster Carers.

All Staying Put expectations should be incorporated into the ‘Fostering Agreement’ that foster carers sign on initial approval, and then on a yearly basis following a successful review of their terms of approval.

**Staying Put Practical Arrangements – Living Together Agreements**

All young people (who are looked after) living in foster care should have a placement plan that sets out the day-to-day arrangements governing the placement; this is then incorporated into their Care Plan/Pathway Plan.

The requirement to have a placement plan ceases when a child reaches the age of 18 and is replaced by the requirement that all young people remaining with their former foster carers under a “Staying Put” arrangement have a ‘Living Together Agreement’.

The ‘Living Together Agreement’ replaces the placement plan and should cover the same range of issues and include a focus on the young person’s needs associated with the reason for the Staying Put” arrangement being agreed.

Young people, Staying Put carer/s, leaving care personal advisers, and supervising social workers should meet to convert the placement plan into a ‘Living Together Agreement’ prior to a young person’s 18th birthday. The agreement should set out the expectation of all parties and clarify roles and responsibilities. The agreement should be incorporated into the young person’s Pathway Plan and should also be presented to Permanence Panel as part of the document set to inform HOS decision making on Staying Put.

The Living Together Agreement should cover:

1. Preparation for independence tasks, expectations, goals, and targets.

2. Finance, including young people having credit cards, loan agreement and mobile phone contracts registered at the address.

3. Income and benefit claims.

4. Friends and partners visiting and staying.

5. Staying away for nights/weekends and informing carers of travel arrangements and movements.

6. Education, training, and employment activities.

7. Health arrangements.

8. Move-on arrangements.

9. Issues related to younger foster care children in the placement, safeguarding, role modelling and time keeping.

10. Specific issues to do with the needs of the young person.

11. All targets set for a young person to achieve the skills necessary for independence should be SMART with clear timescales set.

**Complaints and Advocacy**

i) **Before Start of Arrangement** – if at any stage in the process from when the Leaving Care Assessment begins at age 15¾ through to their 18th birthday, the young person feels that his/her wish to remain with their former foster carer has not been properly considered by the Local Authority or they are unhappy with the way the Council has acted, they should speak to their Independent Reviewing Officer and request a review of their Pathway Plan.

ii) **During Arrangement** - if at any stage during the Staying Put arrangement the young person has concerns or a complaint, they should first raise this on an informal basis with their Personal Advisor. If the complaint cannot be resolved informally, the young person should contact the named responsible team manager who will investigate their complaint. If the complaint remains unresolved after this process or the young person is unhappy with the way the complaint was handled, they should go through the Council’s formal complaints procedure which is set out on the Council’s website.

iii) A**dvocacy** – if the young person wants to speak to someone outside the Local Authority, they have the right to an independent advocate. Change. Grow, Live provide advocacy services on behalf of Derby City Council.

Project Manager: Joanne Groombridge

Telephone: 01332 294534

E mail: Joanne.Groombridge@cgl.org.uk

Website: [www.changegrowlive.org](http://www.changegrowlive.org)

**Conclusion and Universal Credit**

The information in this policy is correct as of 1.12.22 and will apply to Staying Put arrangements during 2023-24. The introduction of the Universal Credit system has created changes to the benefit and tax credit system for foster carers, Staying Put carers and young people in, and leaving care. Universal Credit was fully rolled out to all Jobcentres from December 2018. It is unlikely any young person subject to a staying put arrangement now receives housing benefit as they have been unable to make a new HB claim in any area since December 2018. A link to the understanding Universal Credit guidance is attached <https://www.understandinguniversalcredit.gov.uk/>.

Foster carers and Staying Put carers must ensure that they inform the Department for Work and Pensions and HM Customs and Revenue of any change of circumstance in their family, with their foster children, or with their Staying Put young people.

**Information about disregarding Social Services payments to care leavers**

**Income: means-tested benefits**

**Payments by Social Services**

The following payments are ignored:

A payment from a social services department under ss17, 23B, 23C or 24A of the Children Act 1989 or, in Scotland, a payment from a social work department under s12 of the Social Work (Scotland) Act 1968 or under ss22, 26A, 29 or 30 Children (Scotland) Act 1995 or in Wales, ss37 or 38 of the Social Services and Well-being (Wales) Act 2014 – i.e., payments from social services to assist children in need or young people who have been in care or who have been looked after. For IS and income based JSA, such payments are not ignored if you or your partner are involved in or, for IS only, have returned to work after a trade dispute.

215 **IS** Sch 9 para 28 IS Regs

 **JSA** Sch 7 para 29 JSA Regs

 **ESA** Sch 8 para 30 ESA Regs

 **HB** Sch 5 para 28 HB Regs

 **UC** Sch 10 para 17 UC Regs