

**North Yorkshire County Council  
Children & Young People's Service  
Children's Social Care**

***“Staying Put” (post 18 family placement) arrangements for Young People staying with their former foster carers.***

Document type: Policy and Procedure

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Date: January 2015 updated **June 2020**

Links to other NYCC documents:

Post-18 Family Placement (“Staying Put”) Policy

Further Education Policy

Leaving Care Finance Policy

Higher Education Policy

Policy Statement

This procedure relates to the processes to be followed when making arrangements for a young person in care to remain with their Foster Carer post 18 years. This is a “Staying Put” arrangement.

Processes are to be adhered to by the Fostering Team, the Leaving Care Team, the Looked After Children's Team and the Reviewing Team.

The Planning Transition to Adulthood for Care Leavers Regulations and Guidance 2010 and the Fostering Regulations and Guidance 2011 (Children Act 1989) both require local authorities to have a “Staying Put” policy. Providing Staying Put arrangements became a statutory requirement on 13th May 2014 by the Children and Families Act 2014. The “Staying Put” policy should set out the practical, financial, tax and benefit issues (for both the foster carer and the child) which impact on the decision to extend foster care as “Staying Put” care when a looked after child reaches the age of 18 years.

“Staying Put” guidance was issued by the government in May 2013. This guidance sets out the Department for Education, HM Revenue and Customs and the Department for Work and Pensions (DfE, HMRC and DWP) frameworks that local authorities must be aware of, and take account of, when developing a local “Staying Put” policy. The guidance has been developed across all three departments and encompasses the three sets of requirements impacting on local authorities, foster carers and “Staying Put” carers and young people themselves.

The age of leaving home among the general population as a whole is rising and the transition to adulthood is becoming increasingly complex. Children looked after often leave care to become independent before the age of 18. Research and evidence highlights that where children in care experience an extended transition more akin to their peers, outcomes improve and the experience is more normative.

Many local authorities already extended foster placements beyond a child's 18<sup>th</sup> birthday. These schemes and the “Staying Put” pilots, which have explored the issues involved in the decision and practical arrangements required to extend a placement, have informed the government guidance.

“Staying Put” will enable young people to experience a transition from care to independence and adulthood that is similar to that which most young people experience, is based on need and not on age alone.

**In summary this policy is concerned with the following key points:**

1. The criteria for continuing a fostering placement as a “Staying Put” arrangement once the child reaches 18;
2. How the “Staying Put” arrangement will impact on the allowances provided by the authority and whether other funding, for example Housing benefit, rent element of Universal Credits and funding for housing related support, will contribute to meeting some of the ““Staying Put”” costs;
3. Whether additional allowances provided when the child was a foster child to ensure they were embedded in the family will continue, for example holiday allowances, birthday and Christmas / festival allowances; and some of the practical differences between Staying Put and Foster Care.
4. Any financial contributions from young people from their wages, salary, benefits or education allowances;
5. How the Income Tax, National Insurance and welfare benefits situation of carer/s may be affected by “Staying Put” payments
6. Insurance issues, including liability insurance and household insurance;
7. The impact on foster carers’ approval and their terms of approval, including the numbers approved for, and whether this number includes the “Staying Put” young person;
8. Safeguarding arrangements, including Disclosure Barring Scheme checks on young people reaching eighteen
9. The processes staff members need to follow and in what time scales.

Legislation & Standards

The Children and Families Act 2014  
Care Leavers (England) Regulations 2010  
The Children’s Act 1989 (HE Bursary) Regulations 2009  
Children & Young Persons Act 2008  
Children (Leaving Care) Act 2000

Responsibility

Supporting a “Staying Put” placement is the responsibility of the local authority. This policy must be adhered to by the Fostering Team, the Leaving Care Team, the Looked After Children’s Team and the Independent Reviewing Officer Team

Action

**A. Entitlement to Stay Put**

- 1.1 The young person is deemed an eligible child (paragraph 19(2)(b) of Schedule 2 to the Children Act 1989) immediately prior to their 18<sup>th</sup> birthday.
- 1.2 Both the foster carers and the young person wish to remain living together once the young person is 18.

- 1.3 The carers must have been approved as foster carers in accordance with the Fostering Service Regulations 2011 and the young person had been placed with them by the local authority, or via an Independent Fostering Agency.
- 1.4 The Young Person remains living in their former foster carers on a familial basis and within the same address (unless a retainer payment is paid, see section 7).
- 1.5 The “Staying Put” arrangement is set out in the young person’s pathway plan.
- 1.6 A portion of the allowance paid to the “Staying Put” carers is paid by the Local Authority Children’s Services under section 23C of the Children Act 1989.
- 1.7 Staying put is not intended to replace the process whereby disabled young people who meet the relevant criteria transfer to adult care services such as ‘shared lives’ placements. Where this is the case adult social care services should be involved in the pathway planning in accordance with the Children Act 1989 statutory guidance. A shared lives placement with the young person’s previous foster carer could fulfil the local authority’s duty to provide support under staying put.
- 1.8 In certain circumstances, such as attending a special school until 19, it may be possible to treat this arrangement as a Staying Put subject to Health and Adult Services providing the funding. This arrangement may be particularly suitable in circumstances in which the foster carer(s) are reluctant to be re-assessed to provide an Adult Placement for what is going to be a relatively short period.

## **2. Establishing a “Staying Put” arrangement.**

- 2.1 The option of “Staying Put” should be identified within the young person’s Care Planning/Pathway Planning process as soon as is possible, preferably no less than 6 months before their 18<sup>th</sup> birthday. Good practice would support the possibility of Staying Put being discussed as early as possible after the young person has become eligible. Early consideration of whether a Staying Put arrangement is to be an option provides the foster carers with an opportunity to decide whether the financial arrangements and support that they will receive once the child reaches adulthood will be adequate for their needs. Foster carers who make an early decision that Staying Put will not be an option allows for the LAC social worker and leaving care case worker to make alternative pathway plans with the young person. These alternative plans might include a move to a foster placement which is able to make a Staying Put arrangement.
- 2.2 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 “Staying Put” Coordinator, Leaving Care Case Workers or Supervising Social Workers, in order for both parties to make an informed decision about proceeding with the arrangement. This advice should be in written form (see appendix K).
- 2.3 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.

- 2.4 The Social Worker should ensure that the young person's Pathway Plan should set out the detail of the support to be provided to the young person no less than 6 weeks before the young person's 18<sup>th</sup> birthday, and shared with the young person, the foster carers and the Leaving Care Case worker.
- 2.5 The "Staying Put" payment needs to be inputted onto Controcc prior to the young person's birthday, with a start date of their 18<sup>th</sup> birthday (see Controcc guidance).
- 2.6 The Leaving Care Case Worker will work with the young person to maximise their entitlement to benefits. Consideration should be given to ensure that applications for benefits do not discourage a young person from obtaining or maintaining part or full-time employment.  
The Leaving Care Case Worker will ensure that all claims for benefits are submitted in a timely fashion that minimises any potential disruption in allowances being received by the former carer. A rent agreement should be sent with a Local Housing Allowance or Universal Credit application (Appendix B). If the young person wishes their rent to be paid directly to their provider then the alternative payments will be set up by the LCCW. (Appendix C) The Leaving Care Case 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 Leaving Care Case Worker to agree with the "Staying Put" Coordinator contingency arrangements so that the former carer's level of remuneration is not disrupted.
- 2.7 The "Staying Put" Co-ordinator will in collaboration with the Leaving Care Case Worker convene a "Staying Put" support meeting prior to the young person's 18<sup>th</sup> birthday, and in collaboration with the young person and foster carer complete a "Staying Put Living Together" Agreement (Appendix A) and a Risk Assessment (on LCS). If necessary, a DBS check will also be applied for (see section 8). The purpose of the "Staying Put" Agreement meeting is for both the former carers and the young person to appreciate what is expected of each other.
- 2.8 An Assistant Team Manager/ Team Manager for Leaving Care will authorise the "Staying Put" controcc no less than 2 weeks before the young person's 18<sup>th</sup> birthday.

### **3. Support**

- 3.1 The Leaving Care Case Worker will continue to provide support to the young person throughout the "Staying Put" process. They will ensure regular review of the Pathway Plan, the "Staying Put" arrangement and support the young person within the new arrangement with the former carers. The Leaving Care Case Worker and "Staying Put" Coordinator 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 own money, 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 rent and food utility contribution to the former carer according to the terms of the Agreement.

- 3.2 The Children and Families Act 2014 states that “fostering services need to ensure that their carers are given clear information about how they can expect to be supported if they enter into a staying put arrangement” (Staying Put good practice guide, 2014)
- 3.3 For NYCC Foster Carers, the Fostering Supervising Social Worker will continue to provide support to the former carer for as long as the former carers remain registered as NYCC foster carers. The foster carer will continue to have their registration reviewed annually by the Fostering Independent Reviewing Officer. The “Staying Put” Coordinator and Supervising Social Worker will work together to support the former carer to understand the nature of the “Staying Put” arrangement and their entitlement to funding and will advise the carer about their changing role with the young person under the “Staying Put” arrangement. The “Staying Put” Coordinator will be able to provide the Supervising Social Worker with on-going advice about tax and national insurance implications, and about home and personal liability insurance.
- 3.4 Where the foster carer continues to foster children for North Yorkshire County Council, alongside a “Staying Put” arrangement, their approval status will remain the same.  
Where a foster carer does not have space to continue fostering, a discussion must take place between the Leaving Care Case Worker, the Supervising Social Worker, the Fostering Independent Reviewing Officer and the Fostering Team manager to determine appropriateness of de-registration or nominal on hold status for a period of time, particularly if the foster carer intends to return to fostering.
- 3.5 For former NYCC foster carers who are no longer registered as North Yorkshire foster carers, support will be provided by the Staying Put Coordinator.  
The “Staying Put” Coordinator will ensure that the “Staying Put” arrangement is deemed ‘suitable accommodation’ and meets the requirement of Regulation 6,7 & 9 and Schedule 2 of the Planning Transition to Adulthood Guidance regarding ‘other arrangements’ (available online).
- 3.6 For Foster Carers who work for an Independent Fostering Agency, if the IFA wishes to continue providing support to their foster carer without charging the local authority then this continuity should be encouraged. Where this is not agreed, the “Staying Put” Coordinator will provide the support to the former carer. The support and advice provided will be the same as that described in 3.5.
- 3.7 Former carers should be given information about the income tax and national insurance implications of the “Staying Put” arrangement. This is detailed in the HM Government “Staying Put” Arrangements for Care Leavers aged 18 and above to stay on with their former foster carers, DfE, DWP and HMRC guidance May 2013. (Copies available on line or from “Staying Put” Coordinator).
- 3.8 For carers who are in receipt of welfare benefits, prior to the young person’s 18<sup>th</sup> birthday the “Staying Put” Coordinator should work out if there will be any financial detriment to the foster carer. The carer will need to provide evidence of the benefits in order for this to be worked out, and then a compensatory payment (under section 23c of Children Act 1989 and therefore disregarded for welfare benefit assessments) can be applied for by completing the finance form in

Appendix D. This will be sent to the finance department and payment will be made accordingly. Without evidence, the compensatory payment cannot be made.

- 3.9 A young person may not be able to claim LHA / UC housing element if the Carers are already in receipt of LHA / UC housing element to meet their own housing costs.
- 3.10 In circumstances where all the funding for a “Staying Put” arrangement comes from the “Staying Put” budget, the payment can be made under Section 23c of The Children Act 1989. In these circumstances, a letter should be written to the former carer by the “Staying Put” Coordinator confirming that payments are being made under Section 23c of the Children Act 1989 to support the young person in education, and that the payment should be disregarded for income tax and benefit purposes. (Appendix G)
- 3.11 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. See “Staying Put” Guidance for more detail.
- 3.12 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.
- 3.13 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.
- 3.14 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.
- 3.15 Foster Carers are currently covered for some level of legal protection provided and paid for by Fostering Network in the case of an allegation made against them by a foster child. Fostering Network’s insurance provides cover for foster carers and former foster carers who are supported or accommodated under a “Staying Put” arrangement and/or supported lodgings scheme. Membership to the fostering network will be paid for by the Leaving Care if the carer is no longer fostering to ensure that “Staying Put” providers are covered by the Fostering Network’s insurance policy.
- 3.16 Liability. The County Council Liability insurers have confirmed that the Personal Accident / assault insurers have confirmed that Post 18 Staying Put providers can be covered by the policy held by NYCC.

All Risks The County Council has contingency All Risks for damage to foster carer’s building and contents caused by the foster child and is offered on the following basis:

- The claim will only be considered if a claim is made to the foster carers household policy in the first instance and subsequently not covered under the foster carer's household policy.
  - The All Risks Insurance policy sum insured is £100,000 per household.
  - Vehicles are excluded under the All Risks policy. Staying Put providers notify their motor insurers that they are foster carers and that they will be transporting fostered children as part of their role
- The Council's Property insurers have confirmed that they are prepared to extend the existing contingency Foster Carers All Risks Cover to Staying Put Providers

3.18 Key information and training will be offered to carers as "Staying Put" providers via the fostering network or North Yorkshire's Learning Zone.

#### **4. Finance and funding sources**

- 4.1 The total package of financial support will generally match fostering allowances made to carers when they were fostering (Appendix I).
- 4.2 The young person's income may come from:
- Universal Credit or other benefit
  - 16 – 19-yr bursary
  - Employment
  - Student loans, grants and bursaries.
  - S23c money if an UASC awaiting leave to remain
- 4.3 The financial package for the former carer will be equivalent to that received through fostering allowances minus £50, to reflect the change in expectations. The Staying Put provider will not be expected to purchase things that were previously included in the fostering allowance, in order to enable the young person to develop budgeting skills. This would include clothes and toiletries, and should cover social and leisure activities.
- The funding to the foster carer is made of:
- LHA / UC housing element – the amount varies according to area.
  - Any contribution from the young person, from income or entitlement to grants, allowances or benefits
  - NYCC "Staying Put" funding will make up the balance of the cost.
  - Compensatory Payments under section 23c Children Act 1989. This is in the cases where carers will suffer financial detriment because of the change from foster placement to "Staying Put" arrangement.
- 4.4 The young person may be able to claim Universal Credit or be entitled to the 16-19-yr bursary. Their Leaving Care Case worker will support the young person to maximise their income.
- 4.5 If the young person refuses to make a Local Housing Allowance or housing element of Universal Credit claim, this will result in a reduction in the level of allowance the staying put provider receives – which may result in the young person being asked to leave. The young person should be advised that if they do not make the rent allowance claim:
- It may impact on their future ability to claim Local Housing Allowance or the housing element of Universal Credit.

- 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.
- 4.6 If the young person cannot claim Local Housing Allowance / housing element of Universal Credit (LHA/UC housing element) the Local Authority may compensate by paying an amount equivalent to UC housing element to the former carers.
- 4.7 There is an allowance for each care leaver in North Yorkshire for their Christmas and birthday via the Leaving Care team. It will be agreed who is best placed to use this money to get the young person a gift. This will be paid under section 23c of the Children Act 1989 and therefore disregarded for benefit purposes.

## **5. Young Persons Contribution**

- 5.1 All young people who are Staying Put will be expected to make a contribution set out by the licence agreement (appendix B), but not more than the rent amount per week.
- 5.2 If a young person’s income varies on a weekly basis, they will be expected to pay the amount or shortfall set out by Universal Credit.
- 5.3 The Leaving Care Case Worker will continue to encourage the Young Person to access employment.
- 5.4 Financial arrangements will be reviewed at a minimum on a six monthly basis, or earlier if there is a significant change in financial circumstances.

## **6. Housing Benefit**

- 6.1 North Yorkshire County Council has determined that the young person will not have access to breakfast and evening meals in the “Staying Put” arrangement. This is set out in the rent agreement. They can make a separate contribution to the household food budget if they wish to sometimes eat with the Staying Put providers. This allows the young person more flexibility and opportunities to develop their independence. NYCC have a suggested amount (see Appendix B)
- 6.2 LHA / UC housing element cannot be made to a close relative; therefore, young people who remain living with closely related former kinship/family and friend’s carers under a “Staying Put” arrangement will not be able to claim money towards their rent liability. A Close relative is listed in Appendix F.
- 6.3 The method used to calculate the level of LHA / UC housing element will be calculated by the Department of work and Pensions. It is good practice that the Leaving Care Case Worker estimates what will be expected of the young person so they can start making their contribution straight away to avoid rent arrears.
- 6.4 There must be a genuine liability for rent to that level on a commercial basis.

## **7. Retainer Allowances**



- 7.1 A retainer allowance of £50 per week can be paid in certain situations where a young person's room is exclusively reserved for them, and this prevents the former carers from taking another foster child. It is also an acknowledgement that foster carers provide support to the young person while the room is not occupied. (information letter for providers Appendix L)
- 7.2 Carers who are in receipt of welfare benefits will lose £45 per week of their benefit as the retainer allowance will be considered an income. This must be discussed fully with the carer beforehand so they are able to make a full and informed decision about whether to accept the payment, or end the placement.
- 7.3 Young people are not expected to make a contribution to the retainer allowance.
- 7.4 Where a young person returns to stay for a period of 7 days or more, the former carers will be paid at the current "Staying Put" rate. The young person will be expected to make a contribution to this depending on their income.
- 7.5 If the young person returns to former carers but they do not access to their own room (i.e. If they are using a temporary sofa bed) an allowance of £100 per week will be made to the former carers while the young person is staying with them. The young person will be expected to make a contribution to this depending on their income. No retainer allowance will be paid in this situation.
- 7.6 **Retainer Allowance – Armed Services**  
If a young person joins the armed services, the "Staying Put" carer can be paid a retainer allowance while the young person completes basic training. If the young person remains in the armed services after their basic training, the Staying Put arrangement will be ended.
- 7.7 **Retainer Allowance – University (Appendix L)**  
A retainer allowance can be paid to the former carer of a young person who is at university during term time, if their room is exclusively reserved for them, and this prevents the former carers from taking another foster child. The retainer allowance is to enable the Staying Put provider to maintain contact with the young person through telephone calls and visit where practicable. It should also be used to assist the young person to move to university accommodation and help them settle in.
- 7.8 During the breaks from University the former carer will be entitled to the full "Staying Put" rate if the young person returns to stay in the home in their own bedroom. Care leavers returning to visit for ad hoc days will be expected to make a contribution to their keep. NYCC will only make an allowance when the duration of the stay reaches 7 days.
- 7.9 For Carers who are in receipt of welfare benefits, this payment will be considered an income by the DWP, and they will lose a portion of, or all of, their benefit. Carers must be informed of this beforehand so they are able to make a full and informed decision about whether they can continue to offer a placement.
- 7.10 The bursary which University Students receive from the Council is classed as income and the young person will be expected to contribute towards the cost of returning to their former carers during periods of vacation from this and any other source of income (student maintenance grants and student loans).

- 7.12 There is no formal provision for 'respite' in the "Staying Put" arrangement. The guidance to the benefits agencies does not allow the young person to have two addresses in the case of respite care. If a respite arrangement exists when the young person turns 18 years old, every effort will be made to continue this. However, there would only be one allowance attached to each Staying Put arrangement, so the main Staying Put providers would not receive a payment for the respite period. The young person's permanent address would remain the main Staying Put placement, and the respite would be seen as a temporary address, similar to a holiday address.
- 7.13 A young person who is detained in custody should have the option to keep their placement open if their sentence is 3 months or less. The carer would be paid the retainer allowance of £50 per week for the duration of the sentence.
- 7.14 For a carer in receipt of welfare benefits. If the young person is detained in custody due to remand, the payment to the carers would not be seen as an income by the DWP so they would not lose any of their benefit. However, if the detention in custody was due to a sentence, it is likely that the retainer allowance would be seen as an income and therefore the carer would lose some of their benefit. Again, the carer would need to be informed of this beforehand, in order to make a full and informed decision about whether they could continue to offer the "Staying Put" placement.

## **8. Police Checks and risk assessments**

- 8.1 If the former carer is going to continue to work as a Foster Carer the young person in the "Staying Put" arrangement will need to have an enhanced DBS Check as they become an adult living in the home. This will require sensitive management and sensible negotiation.
- 8.2 The former carers will also be subject to regular DBS checks. For those carers still registered with NYCC as foster carers the DBS checks will continue routinely. For Providers who are no longer NYCC foster carers, the "Staying Put" portfolio lead will keep a record of dates of DBS checks and co-ordinate renewal.
- 8.3 Where there is a positive DBS check on a young person who is "Staying Put", and the carers are still foster carers discussion will need to be had with the Head of Fostering and Adoption. A risk assessment will be completed in conjunction with the young person and carers, and reviewed regularly. If there are children (fostered or the carer's own children) in the household consideration will have to be taken as to what protective factors may be needed. If the Staying Put provider remains a foster carer, fostering procedures will need to be followed.
- 8.4 All risk assessments will take into account any regular visitors to the household.

## **9. The Independent Sector**

- 9.1 If the young person and carer are willing to convert the placement to a supported lodgings arrangement and be paid the current "Staying Put" rate then the IFA should not do anything to obstruct this arrangement.

- 9.2 The Pathway Plan should set out what support should be provided, and by whom. On-going support to former carers in the independent sector by the supervising social worker will be welcomed. The “Staying Put” Coordinator will support these placements as well.

## **10. Young parent**

- 10.1 If a young person in a “Staying Put” arrangement has their child living with them, the young person has full responsibility for the child and should be in receipt of the relevant benefits. The “Staying Put” providers only have responsibility for the young person.

## **11. Monitoring and Reviewing Arrangements**

- 11.1 “Staying Put” Arrangements should be reviewed as part of the Pathway Plan Review a minimum of every six months. This should include a review of any problems or difficulties which have emerged, and what is working well. A review form should be completed and sent to the “Staying Put” Coordinator (Appendix E)
- 11.2 A review can be arranged earlier by agreement between the young person, carers, and the professionals involved.
- 11.3 The young person and carers can also access advice at other times from the Leaving Care Case Worker and/or Supervising Social Worker.

## **12. Ending the “Staying Put” Arrangement**

- 12.1 The “Staying Put” arrangements can be ended before the young person’s 21<sup>st</sup> birthday, 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 “Staying Put” Agreement allows for the ending of the arrangement with 7 days’ notice, but this minimum should only be used in exceptional circumstances. In cases where there is a risk to an individual’s safety the arrangement can be ended immediately.
13. The “Staying Put” arrangements will end when the young person becomes 21 or the young person first leaves the “Staying Put” arrangement. If the young person is in the final year of their course when they turn 21 years old there may be the opportunity to stay put until they have finished the course or the exams.
- 13.1 Planning will be undertaken to ensure young person can move on into suitable accommodation and this should be identified in the Pathway Plan.
- 13.2 When planning to end a “Staying Put” arrangement as a young person approaches 21, it needs to be considered that a young person will no longer be classed as in “priority need” for social housing when they reach 21 years. It may be necessary to plan for the young person to move shortly before this time if social housing is to be accessed.

## **14. Council Tax**

If the carer is out of pocket due to Council Tax, the LA or Young Person will make up the difference.