Staying Put Policy 2019-20

Version 2.0
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Introduction

The Care Matters White Paper contained a significant focus on improving the support for children preparing for adulthood including a pilot programme enabling young people to remain with their foster carers beyond the age of eighteen. To meet the commitments in the White Paper and the 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 more 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 and which requires a Local Authority to facilitate, monitor and support staying put arrangements. This duty came into effect on 13th 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 in order 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 in order to ensure that they can continue to live with former foster carers 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 eighteenth birthday into a Staying Put arrangement;
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 2010; Volume 3; (updated October 2014)
- Fostering Service (England) Regulations 2011 and related Guidance;


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 eighteenth 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 19B(2) of Schedule 2 to the Children Act 1989, immediately before they reached eighteen;
4. The local authority considers that 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 the 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 (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.

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 housing benefit) the non-section 23C element will be taken into account in the calculation of the “Staying Put” carers own means tested benefit claim. For guidance on how this is addressed in Derby see page 17, 18 and 19.

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 that 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.

The Derby Staying Put scheme provides for carers to continue to receive the equivalent to the approved fostering allowance for young people aged 16 to 18 minus the benefits the young person receives and Housing Benefit (or an equivalent sum as for rent). Where the young person needs additional support over and above that normally expected of a young adult a fee may be agreed by the Head of Service.

The amount the Staying Put carer is expected to provide for personal and clothing allowances to the young person is reduced by the amount deducted from the allowance, as the benefit, or earnings from employment that the young person is in receipt of, will replace this element. In addition, the young person is expected to claim housing benefit, or pay rent.

The Staying Put arrangement can continue until the young person first 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.
Shared Lives.

Where the young person has a diagnosed disability and eligible needs under the Care Act 2015, they can be referred to the Preparing for Adulthood Team 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 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 hour 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.

Similar to 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 but the LAC review and children’s worker think the person would benefit from remaining with foster carers a staying put arrangement should be considered.

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 the vacations. The Staying Put arrangement can extend until the young person completes their university course 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.

In order 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, or, replace the clothing, pocket money and personal allowance element by part-time earnings and also claim Housing Benefit.

In situations where young people are working part-time, and do not claim a means tested personal benefit they will be expected to use their earnings to replace the personal and clothing allowances and claim housing benefit. Earnings over a certain amount will result in a reduction of housing benefit 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 housing benefit on reaching the age of 18. In situations where a young person is not eligible to claim Housing Benefit, 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 in line with the Derby Leaving Care Policy.

Staying Put arrangements come within the DfE, DPW and HMRC Staying Put definitional criteria.

**Terminology**

From the 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.

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) should be carefully and sensitively planned in order 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.

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

The Leaving Care Assessment of Need begins at the age of 15¾ 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;

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

3. Do the young person and their foster carers understand the procedures and requirements for extending a foster care placement into a Staying Put arrangement;

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

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

6. 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;
7. What is the parallel plan for the young person should the Staying Put arrangement not be viable;

8. 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;

9. 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 Fair Access to Care (Putting People First) 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 immediately prior to the young person’s 16th birthday. The Staying Put meeting should include the foster carers, supervising social worker, Children’s Social Worker and personal adviser and should establish the viability and likelihood of a Staying Put arrangement occurring. The meeting should identify all the tasks that are required to extend the fostering arrangement into a Staying Put arrangement and apportion roles and responsibilities. The meeting should also 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 in order 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 six 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 when the young person reaches the age of 17½. The Head of Service is responsible for any decision regarding extending a fostering arrangement into a Staying Put arrangement.

All meetings should make reference to the reason for the Staying Put arrangement, the practical requirements associated with Staying Put and also the National Insurance, Income Tax and Welfare Benefits issues for the foster carers and the Welfare Benefit issues for the young person.

All requests to extend a placement after a young person’s 18th birthday must be presented to the Head of Service who will ratify the plan. This is completed at the Permanence Panel, which will have a section committed to Staying Put requests. The request for Staying Put should be presented when the young person reaches the age of 17½. Once agreed, 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), with monitoring of the arrangement being undertaken by the leaving care personal adviser and the Staying Put carers’ supervising social worker.

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.

The Council recognises the very valuable role the 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 setting out the purpose and aims of the Staying Put arrangement and any particular milestones, targets and outcomes:

- Written agreement
- Staying Put proposal
- Copy of latest Pathway Plan. The overall purpose and aims should be set out in the young person’s Pathway Plan and the 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 are 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

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.

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 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 responsible worker or PA will work with the Staying Put carer as appropriate and alert the Leaving Care Team so that alternative arrangements can be put in place for the young person.

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 Personal Benefits for Young People**

Young people remaining in a Staying Put arrangement are expected to claim a means tested benefit for their personal needs from their 18th birthday (from age 16, where possible). These
benefits partly replace the clothing and personal allowance elements previously contained in the foster carer’s maintenance allowance.

None of the following benefits (1 to 4) normally have any impact on the Staying Put carer’s welfare benefits, should they be claiming a means tested benefit.

Young people commencing Higher Education courses at any age are not eligible to claim means tested benefits, with the exception of certain lone parents and sick and disabled young people.

Some legacy cases may well continue to receive the state benefits outlined in this policy. Whilst other Care Leavers are either in the process of or are claiming the new Universal credit means tested benefit.

1. Sick or disabled young people may be able to claim Employment and Support Allowance from their 16th birthday; therefore there will be an equivalent deduction from the amount paid to the foster carer when the young person receives their first E&SA payment.

2. Lone Parents can claim Income Support until their child is 5 years old, Healthy Start Vouchers and a Sure Start Maternity Grant 11 weeks before the due birth date (the Sure Start Maternity Grant is only provided once for the oldest or first child). From the birth of their baby they will also be eligible to claim Child Tax Credits and Child Benefit. (Eligible and Relevant lone parents aged 16 & 17 can also claim the above benefits, but only from the birth of their baby).

3. Young people can claim Income Support under the ‘Relevant Education’ rules if they remain ‘estranged’ from their family and are undertaking a full time (over 12 hours) education or training course which is under the higher education level. Young people can claim Income Support at any point prior to their 21st birthday and will continue to receive payment until the end of the academic year following their 21st birthday, i.e. generally until the July following their 21st birthday.

4. Jobseekers Allowance where young people are registered as unemployed and are actively seeking employment.

5. 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.
**Housing Benefit for Young People**

1. All young people are expected to claim Housing Benefit from their 18th birthday which they will pay to the Staying Put carer to cover the rent/accommodation element of the Staying Put arrangement.

2. Young people living in kinship Staying Put placements with sisters, brothers and certain extended family members who are formally approved as foster carers are not eligible to claim housing benefit on reaching the age of 18. In situations where a young person is not eligible to claim Housing Benefit, Derby CYP will pay the rent/accommodation element of the Staying Put arrangement.

**Housing Benefit for Young People – Guidance**

Housing Benefit can be claimed by visiting Derby City Council’s web site at www.derby.gov.uk apply for it tab and completing an on line claim form. Upon completing the form, the applicant will be advised what information is needed in order for the Housing Benefits Team to be able to process the claim. As previously stated, in order for Housing Benefit to be awarded, the rental arrangement with the applicant’s former foster carer must be commercial and therefore there must be a tenancy agreement or rent book.

Housing Benefit will be calculated using the Local Housing Allowance (LHA) Regulations as the young person will be renting from a private landlord or former foster carer. The LHA amounts can be found on the Derby City Council website under Advice and benefits, Benefits, Local housing allowance.

The young person can be considered to be a vulnerable person and so the Housing Benefit, which would normally be paid directly to the applicant under LHA regulations, will be paid directly to the landlord.

**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 the fostering allowance, 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 Housing Benefit from Derby Housing Benefit Department. In addition, Staying Put carers will have their Fostering Maintenance Allowance reduced but will no longer be expected to provide the same level of financial support to the young person. 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. In circumstances where a young person is in receipt of earnings, their earnings can be used to replace the allowances that are no longer provided by their carer.
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 deducted from their Maintenance Grant and other funding. The Council may make a contribution 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.

See Appendix Three and Four for a detailed financial breakdown.

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 carer 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 to the carers 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 Housing Benefit is paid to the young person, or they pay the rent element from their earnings, all non-section 23C payments 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 Housing Benefit, an amount equivalent to the carer’s 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 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 to the carer.

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

1. From April 2013 Council Tax Benefit has been 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 a means tested benefit, a Non-dependent Deduction should not be applied to the Staying Put carers own means tested benefit claim.

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 Head of Service Fostering for a payment from section 23C equivalent to the carer’s financial loss.
6. Staying Put young people will not incur an ‘Under Occupancy’ or bedroom tax charge on the Staying Put carers.

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 (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

Where young people remain living with their former foster carers under a Staying Put arrangement, the Income Tax and National Insurance rules that apply are set out in the ‘Shared Lives Carers’ – ‘Qualifying Care Relief’ Guidance.

The ‘Shared Lives Carers’ – ‘Qualifying Care Relief Guidance’ sets out that Staying Put carers receive tax exemptions up to a given ‘qualifying amount’ for each Staying Put young person living with them. The Staying Put qualifying rate mirrors the system and amounts that applied when the placement was previously a foster care placement.

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.

The Qualifying Care Relief system provides for foster carers and Staying Put carers to earn up to a given amount without paying Income Tax or Class 4 National Insurance Contributions on their caring income.

The qualifying amount is made up of two parts:

1. A fixed amount (£10,000 for each household for 2018/19). If two or more carers in the same household receive allowances separately, they will share the £10,000 equally. If you are a registered carer for less than a full year you can claim a suitable proportion of your fixed amount.

2. An amount per week, for each young person placed with you (£250 per week per adult aged eighteen up to their twenty first Birthday or until the end of their programme of education or training, as defined as Staying Put by HMRC.
The £10,000 per year applies once per household regardless of how many foster children or Staying Put young people are placed. 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 carers exceed 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 carers 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 carers or Staying Put carers 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.

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 carers as well as foster carers should note that they may be able to claim Working Tax Credit which is administered by HMRC. Fostering or Staying Put care is counted as work for Working Tax Credit purposes. The carers’ 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 credit 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 carers 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 carer’s credit, foster carers and 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.
If they are currently registered to pay Class 2 National Insurance Contributions they can obtain further information by calling the Self-employed Helpline on **0845 915 4655** instead.


Foster carers and Staying Put carers should always inform the DWP and HMRC if their circumstances change and should always check with the DWP and HMRC regarding their personal circumstances and how payments for foster care or Staying Put care may affect their means tested benefits or any Income Tax or National Insurance liability.

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

**Where a Fostered Child/Children are also Living in the Staying Put Arrangement**

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 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 18;
  - On all fostered children reaching the age of 18.
  - In order to ensure DBS checks have been completed by the young person’s 18th birthday, these will need to be planned in advance (from 17½).

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. See section - Staying Put Practical Arrangements – Living Together Agreements.

In addition, the foster carer/s should be returned (review report presented) to the fostering panel for a change of circumstances (new adult member of the household – Staying Put young person) before the young person reaches 18, in anticipation of the change of status.
should address any issues arising from a DBS check and associated ‘risk assessment’ and how any foster children, or children of the foster carer/s living in the household will be safeguarded.

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.

**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’ (refer to further information concerning Living Together Arrangements at page 21).

- A return to fostering panel/supported lodgings panel to discuss changes in the household arrangements and any plans for future deregistration and/or agreeing a period of fostering inactivity if a carer is not taking any further fostering placements (on a temporary or permanent basis).

- A yearly 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 fostering officer will need to assess individual circumstances and consider the appropriateness of all of 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 carer’s 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.

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.

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 Council 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 look into 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) Advocacy – if the young person wants to speak to someone outside the council, they have the right to an independent advocate. SOVA Derby provide advocacy services on behalf of the Council;

Project Manager: Gill Black

Freefone number for young people:

Telephone:

E mail:

Website:
Conclusion and Universal Credit

The information in this guidance sheet is correct as of and will apply to Staying Put arrangements during 2019-20. 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. The introduction of Universal Credit means there are four possible “Staying Put” arrangements, all of which will have different impacts on the Staying Put carer and young person’s claim:

1. Staying Put carer on old benefit system, young person on old benefit system;
2. Staying Put carer on old benefit system, young person on Universal Credit system;
3. Staying Put carer on Universal Credit system, young person on old benefit system;
4. Staying Put carer on Universal Credit system, young person on Universal Credit system.

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.
Appendix One

Standard Staying Put Arrangement - Housing Benefit Claim Letter

License to Occupy – License Agreement

Staying Put” Carers Address

Derby Benefits Service

Young Person (TENANT): D.O.B:

N.I. NUMBER:

CURRENT ADDRESS:

TYPE OF ACCOMMODATION AND TENANCY:

Previous Foster Care Placement (“Staying Put” Arrangement) – Excluded Licence

The Staying Put carer is deemed the landlord

Name of Landlord Foster Carer/Staying Put Carer

Agent for the Landlord DCC CYP

Dear Sir/Madam,

This letter is provided to confirm that (Add Full Name) was previously a foster care child placed in my household. (Add Full Name) has now reached the age of eighteen and will be remaining as an ‘independent adult’ in my house to complete his/her education or due to his or her vulnerability under a “Staying Put” arrangement. (Add Full Name) is liable for rent costs of £xx.xx per week excluding meals and utility charges. DCC CYP will continue to provide an allowance to meet the support costs of (Add Full Name). As (Add Full Name) is provided with meals and is a care leaver I understand (he/she) is eligible to claim Housing Benefit under the 1996 Housing Benefit maximum rent rules relating to ‘Boarder’ arrangements.

As (Add Full Name) was previously ‘Looked After’ and remains vulnerable I would request that the Housing Benefit is paid directly to DC CYP as an agent of the carer/s. DCC CYP will
continue to pay the carer/s the combined accommodation and support cost to avoid any disruption to the carer/s payments.

If you require any further information please do not hesitate to contact me.

Yours faithfully

*SIGNED BY FOSTER CARER/STAYING PUT CARER*
APPENDIX TWO

Standard Benefit Claim Letter - Young Person in Foster Care

CLIENT NAME: D.O.B: N.I. NUMBER:

CURRENT ADDRESS:

TYPE OF ACCOMMODATION AND TENANCY:
Previous Foster Care Placement ("Staying Put" Arrangement) – Excluded Licence

Name of Landlord Foster Carer/Staying Put Carer
Agent for the Landlord DCC CYP

Dear Sir/Madam,

This letter is provided to verify the identity of the above named young person and to confirm and clarify his/her circumstances.

The above named young person was previously placed in foster care at the above address. As the young person has now reached the age of eighteen (he/she) is no longer in foster care and (he/she) is remaining with (his/her) previous foster carers under a "Staying Put" arrangement due to (his/her) vulnerability/education needs. The young person is now deemed 'independent in (his/her) own right' and is liable for accommodation costs of £xx.xx
per week, excluding meals, utility and support charges. The information provided below sets out (his/her) legal status and financial circumstances.

I can confirm that (Add Full Name) was previously an ‘Eligible’ child or an ‘Eligible’ and ‘Relevant’ child and became a ‘Former Relevant’ child on (Add Date) as defined by the Care Planning, Placement and Case Review Regulations and Guidance 2010 and Care Leavers (England) Regulations 2010.

A. I can also confirm that (Add Full Name) was previously ‘Looked After’ by DCC CYP and was ‘Accommodated’ under Section 20 of the Children Act 1989.

B. I can also confirm that (Add Full Name) was previously ‘Looked After’ by DCC CYP and was subject to a Section 31 Care Order under the terms of the Children Act 1989.

(Add Full Name) ceased to be ‘Looked After’ on (Add Date) and will continue to receive practical support and, in specific circumstances, financial help from DCC CYP under Section 24 of the Children Act 1989 or Section 23C of the Care Leavers (England) Regulations 2010. Section 23C and Section 24 payments must be declared when claiming benefits but are not be counted as income for welfare benefit purposes. Whilst (Add Full Name) is establishing his/her welfare benefit claim he/she will be provided with a £57.35 allowance under these powers.

1. As (Add Full Name) has now become a ‘Former Relevant’ child and ceased to be ‘Looked After’, I believe he/she will be entitled to claim Jobseekers Allowance at the rate of £xx.xx per week and full Housing Benefit and Council Tax Support.

2. As (Add Full Name) has now become a ‘Former Relevant’ child, has ceased to be ‘Looked After’ and is engaged on a traineeship at the rate of £xx.xx per week, I believe he/she will be entitled to claim full Housing Benefit and Council Tax Support.

3. As (Add Full Name) has now become a ‘Former Relevant’ child, has ceased to be ‘Looked After’, remains estranged from his/her parents and is covered by the relevant education criteria, I believe he/she will be entitled to claim Income Support at the rate of £xx.xx per week and full Housing Benefit and Council Tax Support.

4. As (Add Full Name) has now become a ‘Former Relevant’ child, has ceased to be ‘Looked After’, remains estranged from his/her parents and has been given a ‘Fit Note’ by his/her Doctor, I believe he/she will be entitled to claim Employment & Support Allowance and full Housing Benefit and Council Tax Support.
5. As *(Add Full Name)* has now become a ‘Former Relevant’ child, has ceased to be ‘Looked After’ and is earning a low income, I believe he/she will be entitled to claim Housing Benefit and Council Tax Support. Please find attached relevant wage slips/prove of income.

6. As *(Add Full Name)* has now become a ‘Former Relevant’ child, has ceased to be ‘Looked After’ and is temporarily unable to submit a claim for means tested benefits, Derby City Council will provide an allowance under Section 23C of the Care Leavers (England) Regulations 2010. As this payment will constitute a low income, I believe he/she will be entitled to claim Housing Benefit and Council Tax Support.

7. As *(Full Name)* was ‘Looked After’ on/or after *his/her* sixteenth birthday *he/she* is exempt from the single room rent restriction.

*(Add specific information)*

If you require any further information please do not hesitate to contact me.

Yours faithfully

Approved Signatures

**Team Manager**

**Assistant Team Manager**

* Please complete, or delete, either section A or B, complete the bold text sections and the relevant sections 1 to 6. All other sections must be completed.
Information about disregarding Social Services payments to care leavers.


Chapter 36: Income: means-tested benefits
Part 4 Common benefit rules

Page 903:

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 ss29 or 30 Children (Scotland) Act 1995 – ie, 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
    CTB Sch 4 para 29 CTB Regs