



Care leavers and benefits: giving good advice

Many 16 and 17-year-olds who have been 'looked after away from home' by the local authority cannot get income support, income-based jobseeker's allowance or housing benefit. Instead, the local authority which last looked after them is responsible for providing financial support. Local authorities often refer to this help as after-care, after-care services, or leaving care services.

This leaflet explains the special benefit rules affecting some young care leavers.

“ *It is really important that people who work with young people leaving care know what the issues are for this group and have clear and concise information in order to best support them* ”

A support worker

Which benefits are affected?

Income support, income-based jobseeker's allowance (JSA) and housing benefit are the only benefits affected by these special rules. Other benefits like disability living allowance and employment and support allowance are not affected.

Which young people are affected?

A young care leaver is affected by these special rules if **all** of the following apply:

- s/he is over **school-leaving age** (see below) and under 18; *and*
- s/he was **looked after away from home** (see below) by the local authority for at least **13 weeks** since the age of 14; *and*
- s/he was looked after by the local authority at school-leaving age or after that date; *and*
- s/he is no longer looked after by the local authority; *and*
- s/he is not living with her/his **family** (see below), or s/he is living with her/his family and is receiving regular financial support from the local authority under section 29(1) Children (Scotland) Act 1995.

Defining the terms

School-leaving age is the age a young person is legally allowed to leave school. When the date falls depends on when s/he reaches age 16.

If her/his 16th birthday is between 1 March and 30 September, the school-leaving date is 31 May of that year.

If her/his 16th birthday is between 1 October and the last day of February of the following year, the school-leaving date is the first day of the Christmas holidays. If the December leaving date applies, but s/he has not been attending school, the leaving date is 21 December.

Example

Beth's 16th birthday is on 29 September 2009. Her school-leaving date is 31 May 2009.

Sophia's birthday is a week later, on 6 October 2009. Her school-leaving date is the first day of the 2009 Christmas holidays (or on 21 December if she has not been attending school).

Looked after means:

- the local authority provides the child/young person with accommodation under section 25 Children (Scotland) Act 1995; *or*
- the child/young person is subject to a supervision requirement under section 70 Children (Scotland) Act 1995; *or*
- the child/young person is subject to an order, authorisation or warrant issued by a sheriff or a children's hearing under chapters 2 and 3 of Part II Children (Scotland) Act 1995. These include child protection orders and child assessment orders if s/he is living away from home; *or*
- the child/young person is the subject of a permanence order under Part 2 of the Adoption and Children (Scotland) Act 2007; *or*
- the child/young person has been transferred to Scotland from another part of the UK, and is subject to an order made under section 33 Children (Scotland) Act 1995.

Looked after away from home means provided with accommodation by the local authority under section 25 of the Children (Scotland) Act 1995 or there being a supervision requirement under section 70(3) of the Children (Scotland) Act 1995, requiring the child/young person to live in a specified place, unless that specified place is with their own family.

The **13-week period** does not have to be a continuous period. When calculating the 13-week period, do not include any pre-planned short-term placements (such as respite) of four weeks or less if the young person returned to their family at the end of the placement.

Family includes anyone who has parental responsibility for the child/young person (except the local authority) and anyone with whom s/he was living before being looked after by the local authority. A young person is still defined as a care leaver (and, therefore, cannot claim income support, income-based JSA or housing benefit) if s/he lives with her/his family **and** the local authority provides regular financial support under section 29(1) Children (Scotland) Act 1995.

The effect

If a young person aged 16 or 17 falls into the definition of a 'care leaver' as set out in the **Which young people are affected?** section above this means they cannot normally get income support, income-based JSA or housing benefit. Instead the local authority which last looked after them is responsible for supporting them financially, and providing accommodation. However, see next section for exceptions.

Exceptions

As with most rules, there are some exceptions.

Lone parents

Even if a young person comes within the definition of care leaver set out in the **Which young people are affected?** section above s/he is not excluded from income support or income-based JSA if s/he is a lone parent. A care leaver in this situation would usually choose to claim income support, not JSA. S/he is still not able to claim housing benefit. The local authority will not give regular financial support, but should still provide or pay for accommodation.

Care leavers who are too unwell to work

Care leavers who are too unwell to work may be able to claim employment and support allowance (ESA) – there are no special rules preventing this. However s/he will still not be able to claim housing benefit and the local authority should still provide or pay for accommodation.

Examples

Rob is aged 17. When he was 15 he started being looked after away from home. He lived with foster carers. This continued until a few months after his official school-leaving date when he stopped being 'looked after' and moved into supported accommodation run by a voluntary organisation. Rob is a care leaver who cannot get income support, income-based JSA or housing benefit.

Mel is aged 17. She was looked after away from home since the age of 12 until two months after her school-leaving age. She has remained in the home of the foster carers who have looked after her for several years. She is a lone parent with a baby. Although Mel is in a very similar situation to Rob, she is not excluded from getting income support or income-based JSA (providing she meets the usual conditions of entitlement). She can get income support as a lone parent. Like Rob, she cannot get housing benefit.

Further information and advice

Child Poverty Action Group in Scotland

Tel: 0141 552 0552
Advice line for advisers on all aspects of benefits and tax credits Monday, Tuesday, Wednesday and Thursday 10am to 12 noon

Email: advice@cpagscotland.org.uk
Web: www.cpag.org.uk

CPAG publishes the *Welfare Benefits and Tax Credits Handbook*, a comprehensive guide to benefits and tax credits for claimants and advisers, and the *Children's Handbook Scotland*, a guide to benefits for children living away from their parents, which includes comprehensive information for care leavers. The *Children's Handbook Scotland* is available free online at <http://scottishhandbooks.cpag.org.uk>

Scottish Throughcare and Aftercare Forum

The Scottish Throughcare & Aftercare Forum aims to improve support for young people leaving care by influencing the development of national policies and local support services.

Tel: 0141 357 4124
Email: enquiries@scottishthroughcare.org.uk
Web: www.scottishthroughcare.org.uk
Web: www.debateproject.org.uk

What young people say about the value of good support:

"I have had a great team of support around me to help me through the hard times and helping me to move on to my own home and give me all the support I needed to get me to the next step of my life thanks to them all they were great."

"Throughcare stepped in and found me supported lodgings where I was able to carry on my studies. They supported me financially. After completing my studies and starting a job they helped me find a flat."

**CHILD
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GROUP**
in SCOTLAND



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