



# Care leavers and benefits: giving good advice

Updated June 2018

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Child Poverty Action Group works on behalf of the one in four children in Scotland growing up in poverty. It doesn't have to be like this. We use our understanding of what causes poverty and the impact it has on children's lives to campaign for policies that will prevent and solve poverty – for good.

We provide training, advice and information to make sure hard-up families get the financial support they need. We also carry out high profile legal work to establish and protect families' rights.

## Introduction

Many 16 and 17-year olds who have been 'looked after away from home' by the local authority cannot get universal credit, income support, income-based jobseeker's allowance or housing benefit. Instead, the local authority which last looked after them is responsible for providing financial and housing support. Local authorities often call this help 'after-care', 'after-care services' or 'leaving care services'. This leaflet explains the special benefit rules affecting some young care leavers. These special rules also impact on 16 and 17 year olds who are in 'continuing care' (see below).

## ***Continuing care***

*'Continuing Care' is an approach introduced by the Children and Young People (Scotland) Act 2014. It describes a duty on local authorities, effective from April 2015, to provide young people who are looked after and accommodated, and whose final placement is 'away from home', with the same accommodation and other assistance they received before they stopped being looked after. The aim of continuing care is to provide young people with the option of a more gradual and better supported transition out of care. The duty to provide continuing care is at section 26A of the Children (Scotland) Act 1995.*

## **Which benefits are affected?**

Universal credit, income support, income-based jobseeker's allowance (JSA), and housing benefit are the only benefits affected by these special rules. Other benefits like personal independence payment and employment and support allowance are not affected.

## **Universal credit and care leavers**

A benefit called universal credit (UC) has started to replace means-tested benefits and tax credits. Eventually the following benefits and tax credits will all be replaced by universal credit:

- income support
- income-based JSA
- income-related employment and support allowance
- housing benefit for most people
- working tax credit
- child tax credit

Most care leavers aged 16 and 17 are not able to claim UC. For UC, a young person counts as a care leaver if:

- s/he was looked after by the local authority at her/his 16<sup>th</sup> birthday or after that date;
- s/he was looked after away from home by the local authority for at least three months since the age of 14. The three months doesn't have to be a continuous period;
- s/he is no longer looked after by the local authority.

A young person aged 16 or 17 who is in a continuing care arrangement and who was looked after and accommodated by the local authority for at least three months since the age of 14 is also excluded, as is a young person aged 16 or 17 who is still looked after by the local authority.

Instead of the young person being able to claim UC, the local authority which last looked after her/him is responsible for providing financial support and accommodation. The local authority's duty to support care leavers is contained in section 29 of the Children (Scotland) Act 1995. The duty to support young people in continuing care is contained in section 26A of the Children (Scotland) Act 1995. If you need more advice or information about the local authority's duties and responsibilities see below for details of organisations which can help.

## Exceptions

As with most rules, there are some exceptions. Even if the young person comes within the definition of a care leaver set out above, s/he is not excluded from UC if s/he:

- is responsible for a child; *or*
- is a member of a couple and her/his partner is responsible for a child; *or*
- has limited capability for work or is waiting for an assessment to establish whether s/he has limited capability for work.

**Note: even if one of these exceptions applies, the young person still can't get help with rent in their UC.**

### Examples

*Rob is aged 17. When he was 14 he started being looked after away from home. He lived with foster carers. This continued until a few months after his 16<sup>th</sup> birthday, when he stopped being 'looked after' and moved into supported accommodation run by a voluntary organisation. Rob is a care leaver who cannot get universal credit.*

*Mel is aged 17. She was looked after away from home since the age of 12 until two months after her 16<sup>th</sup> birthday. She is in 'continuing care' and lives with 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 universal credit (although not for housing costs).*

## Income support, income-based JSA and housing benefit

Income support, income-based JSA and housing benefit are being replaced by universal credit. However, until universal credit is fully rolled out these benefits will still be relevant to many people. Care leavers aged 16 and 17 are excluded from claiming these benefits if **all** of the following apply:

- s/he is aged 16 or over and under 18; *and*
- s/he was **looked after away from home** 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 her/his 16<sup>th</sup> birthday 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**, or s/he is living with her/his family and is receiving regular financial support from the local authority. *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.

**Note: these special rules apply to a young person who is in continuing care providing all the bullet points above apply to her/him.**

### Exceptions

#### *Lone parents*

Even if a young person comes within the definition of care leaver for income support, income-based JSA and housing benefit s/he is not excluded from income support or income-based JSA if s/he is a lone parent. This includes 16 and 17 year olds who are in 'continuing care'. 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.**

#### *Care leavers who are too unwell to work*

Care leavers, including 16/17 year olds in 'continuing care', who are too unwell to work may be able to claim employment and support allowance (ESA) – there are no special rules preventing this. **However they will still not be able to claim housing benefit.**

For more information on universal credit and other welfare reforms see [www.cpag.org.uk](http://www.cpag.org.uk)

### **Advice and information on the local authority's responsibilities**

This factsheet focuses on the benefit system. If you need more advice or information on the local authority's duties and responsibilities regarding care leavers or continuing care, contact one of the following organisations:

**Staf** - Phone: 0141 465 7511 Email: [info@staf.scot](mailto:info@staf.scot)

Web: [www.staf.scot](http://www.staf.scot)

**Celcis** - Phone: 0141 444 8500 Email: [celcis@strath.ac.uk](mailto:celcis@strath.ac.uk)

Web: [www.celcis.org](http://www.celcis.org)

**Who Cares Scotland** - Phone: 0141 226 4441 Email: [hello@wcscot.org](mailto:hello@wcscot.org)

Web: [www.whocarescotland.org](http://www.whocarescotland.org)

## Further advice and information

### Child Poverty Action Group in Scotland

0141 552 0552 advice line for advisers on benefits and tax credits,  
Monday to Thursday 10am to 4pm, Friday 10am to 12 noon

Email: [advice@cpagscotland.org.uk](mailto:advice@cpagscotland.org.uk)

Website: [www.cpag.org.uk/scotland](http://www.cpag.org.uk/scotland)

For more detailed information about all of the issues covered please see CPAG's *Children's Handbook Scotland*, available free online at <http://www.onlinepublications.cpag.org.uk>

CPAG in Scotland's advice line is only for frontline workers in Scotland. If you are having problems with your own benefit or tax credits claim and need advice you should contact your citizen's advice bureau or other local welfare rights service.



Staf works with frontline workers, managers, leaders and influencers to improve the life chances and to create the best possible outcomes for young people leaving care in Scotland.

#### Contact details:

Edward House  
2nd Floor,  
199 Sauchiehall Street,  
Glasgow,  
G2 3EX

Tel: 0141 465 7511

Email: [info@staf.scot](mailto:info@staf.scot)

Web: [www.staf.scot](http://www.staf.scot)

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CPAG in Scotland's Welfare Rights Projects are supported by the Scottish Government.