



## 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.

See page 4 for the latest on universal credit.

*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 benefits affected by these special rules. Other benefits like disability living allowance and employment and support allowance are not affected. See page 4 for details about universal credit.

## 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.

## 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 2013. Her school-leaving date is 31 May 2013.*

*Sophia's birthday is a week later, on 6 October 2013. Her school-leaving date is the first day of the 2013 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 compulsory supervision order or interim compulsory supervision order under the Children's Hearings (Scotland) Act 2011 (these have replaced supervision requirements under section 70 of the Children (Scotland) Act 1995); *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 order, 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.

## 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 the 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.*

### Universal credit and care leavers

From October 2013 a new benefit called **universal credit** 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
- working tax credit
- child tax credit

The universal credit rules for care leavers aged 16 and 17 are very similar to the current special rules for income support, income-based JSA and housing benefit. This means that care leavers aged 16 and 17 are not generally able to claim universal credit. Instead the local authority is responsible for supporting them financially and in relation to housing. There are exceptions for young care leavers who are parents or who are too unwell to work. They are able to claim universal credit in respect of living expenses but not for housing costs.

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

## 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 to Thursday 10am to 4pm, Friday 10am to 12 noon.*

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

**Web:** [www.cpag.org.uk](http://www.cpag.org.uk)

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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. Care leavers can get involved with the Forum's Debate Project to share views and influence policy.

**Tel:** 0141 357 4124

**Email:** [enquiries@scottishthroughcare.org.uk](mailto:enquiries@scottishthroughcare.org.uk)

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