

# Staying Put Policy

July 18

# 2018

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This procedure sets out the arrangements to enable care leavers to remain with their foster carers after they turn 18.

WBC  
Fostering  
Service

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## Staying Put Policy for Young People in Foster Care

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### **SCOPE**

This procedure sets out the arrangements to enable care leavers to remain with their foster carers after they turn 18.

The Policy was amended in September 2017 to include definitions of a Staying Put arrangement, entitlement, clarifications to the duration and ending the arrangements and practice guidance for Social Workers and Personal Advisers.

### **LEGAL FRAMEWORK**

[Children and Families Act 2014](#)

[Care Planning, Placement and Case Review \(England\) Regulations and Guidance 2010, with additions and revisions in 2013 and 2014](#)

[The Children Act 1989 Guidance and Regulations - Volume 3: Planning Transition to Adulthood for Care Leavers \(England\) Regulations and Guidance 2010, revised 2014](#)

[Fostering Service \(England\) Regulations 2011, 2013 and related Guidance \(and amendments\)](#)

[National Minimum Standards \(NMS\) for Fostering Services \(2011\) \(and amendments\)](#)

["Staying Put" Arrangements for Care leavers aged 18 and above to stay on with their former foster carers](#)

[Staying Put – Good Practice Guide](#)

### **RELATED DOCUMENTS**

[Leaving Care Policy and Procedures](#)

## **1.0 INTRODUCTION**

- 1.1 Warrington Borough Council has a statutory duty under the Children and Families Act 2014 to support Care Leavers who wish to stay with their former Foster Carer(s) as a Staying Put Arrangement until they reach the age of 21.

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1.2 Staying Put Arrangements support Care Leavers to have a positive start to adulthood and provide them with a supportive family base so that they are better equipped to do well in life.

1.3 The aims of the Arrangements will be specific to each individual and the allocated Social Worker and Personal Adviser are responsible for clarifying these in the young person's Pathway Plan and the written agreement covering the Arrangement. In general however, they are designed to:

- Ensure that Care Leavers experience a transition to adulthood similar to that of their peers, within a supportive family environment
- Ensure that Care Leavers do not feel obliged to leave their former foster family before they feel ready to move into greater independence
- Help Care Leavers to maximise opportunities for education, employment or training
- Reduce the likelihood of periods of homelessness
- Support Care Leavers to develop the necessary emotional and practical skills before they are required to live independently
- Reduce the likelihood of social exclusion.

## 2.0 STAYING PUT ARRANGEMENT DEFINITION

2.1 Staying Put is defined by the [Children Act 1989](#) as an Arrangement where a young person, who when they became 18 was deemed to be an 'eligible child', continues to live with their former Foster Carer(s) after reaching their 18<sup>th</sup> birthday.

### Eligible Child

Under [paragraph 19B\(2\) of Schedule 2 of the Children Act 1989](#) an eligible child is someone who:

- Is in care of the local authority;
- Is aged 16 or 17; and
- Has been in care for a total of at least 13 weeks since the age of 14.

This term means that they are eligible for support as a Care Leaver, and does not refer specifically to a Staying Put Arrangement. Once they become 18 an eligible child is known in law as a 'former relevant child'.

### **Relevant Child**

A relevant child is someone aged 16 or 17 years who is no longer in care but was considered an 'eligible child' prior to the last care episode ceasing.

### **Former Relevant Child**

A Former Relevant Child is someone who before reaching the age of 18 years was either an eligible or relevant child.

## **3.0 DIFFERENCE BETWEEN STAYING PUT AND FOSTER CARE**

- 3.1 From the age of 18 young people are no longer legally in care of Warrington Borough Council and therefore the arrangements which have been made to accommodate them and the regulations governing these placements no longer apply.
- 3.2 Staying Put is referred to as an Arrangement to differentiate it from a Foster Placement and it is governed by [The Children Act 1989 Guidance and Regulations - Volume 3: Planning Transition to Adulthood for Care Leavers \(England\) Regulations and Guidance 2010, revised 2014.](#)
- 3.3 Staying Put Arrangements are not a continuation of Fostering Placements and the change in law in 2014 means that these agreements are now legislated for up until the young person reaches the age of 21.

## **4.0 ELIGIBILITY CRITERIA**

- 4.1 Staying Put Arrangements are available to all young people in foster care who would like to participate on the basis that they meet the following criteria:
  - a) The young person must be in care immediately prior to their 18<sup>th</sup> birthday as an 'eligible child'.
  - b) The carers were acting as Foster Carer(s), either as local authority, family and friends foster carer(s) or Independent Agency foster carer(s), immediately prior to the child's 18<sup>th</sup> birthday. This applies whether the Foster Placement was long-term or short-term.

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c) The Staying Put Arrangement has been agreed and detailed in the young person's Pathway Plan.

4.2 Foster carer(s) are not required to undergo an assessment in order to provide a Staying Put Arrangement as it is considered an agreement made between adults and is not required to be regulated. The legal basis for which the young person remains in the property will change and the young person will be known as an Excluded Licensee under [Section 622 of the Housing Act 1985](#) and will be effectively lodging in the former Foster Carer(s) home.

#### **Excluded Licensee**

As an Excluded Licensee the young person will be treated differently than they were as a fostered child and the Carer(s) will also become, and be deemed, the young person's landlord as set out in [Section 622 of the Housing Act 1985](#).

The associated change from foster child to adult member of the household, and for the Foster Carer to Staying Put landlord, should be carefully and sensitively planned in order to ensure that both young people and the Foster Carer(s) 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.

4.3 Staying Put Arrangements will normally conclude by the time a young person becomes 21 years of age if continuously and still living in the arrangement. Planning must ensure that the young person can move on to suitable accommodation from the Staying Put Arrangement.

## **5.0 SPECIFIC CIRCUMSTANCES**

### **5.1 FAMILY AND FRIENDS FOSTER CARERS**

5.1.1 Family and Friends Foster Carer(s) can enter Staying Put Arrangements in exactly the same way as other Foster Carer(s).

### **5.2 LIVING AWAY FROM HOME**

5.2.1 Living away from home on a temporary basis, either as part of studying at university or a residential further education institution, undertaking induction training for the armed services, or other training or employment programmes that require a young person to live away from home, does not preclude a young person from entering or continuing with a Staying Put Arrangement.

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## 5.3 DISABLED YOUNG PEOPLE

### 5.3.1 Staying Put Arrangements do not replace Shared Lives' Placements.

#### **Practice Guidance**

Shared Lives Placements are an alternative to home care and care homes for disabled people and carers provide accommodation and extra support to enable them to live well.

Where a young person is disabled and may be eligible for this type of arrangement, adult social care services should be invited by the allocated Social Worker to be involved in the Pathway Planning. An assessment will be undertaken by Adult Services to confirm eligibility to the scheme and when they reach 18 converted to a Shared Lives Placement. This will ensure that both the young person and the carer have a formal regulatory and safeguarding framework that addresses their respective needs.

A Shared Lives Placement with the young person's previous foster carer could fulfil Warrington Borough Council's duty to provide support under Staying Put.

## 6.0 ESTABLISHING A STAYING PUT ARRANGEMENT

### 6.1 Staying Put Arrangements must be considered as part of the young person's Pathway Plan Assessment (Ref: [paragraph 5.1, Leaving Care Policy and Procedures](#)).

#### **Practice Guidance**

Around the young person's 16<sup>th</sup> birthday the following questions should be explored and addressed to ensure that Staying Put is the right option for both the young person and foster carer(s).

1. Is it likely that the young person would benefit from a Staying Put Arrangement when they reach their 18<sup>th</sup> birthday?
2. Are the young person and their Foster Carer(s) in agreement to a Staying Put Arrangement?
3. Do the young person and their Foster Carer(s) 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?

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5. Does the Foster Carer(s) understand the changes in their financial support arrangements associated with a Staying Put Arrangement?
6. Does the Foster Carer(s) 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 final year of foster care and when the placement becomes a Staying Put Arrangement?

6.2 Decisions in principle about whether or not Staying Put is an appropriate option should be taken as early as possible, in consultation with the young person and Foster Carer(s) and written into the young person's Pathway Plan. The decision should be then formalised at the Statutory Review. The Social Worker must inform the relevant Supervising Social Worker from the Fostering Service as soon as it is known that a Staying Put Arrangement is being considered.

6.3 An Arrangement to Stay Put must be agreed by both the young person and the Foster Carer(s). Advice about the differences between a Foster Placement and a Staying Put Arrangement should be given to the young person and Carer(s) by the Supervising Social Worker in order for both parties to make an informed decision about proceeding with the Arrangement.

6.4 A copy of the young person's Pathway Plan and the Statutory Review must be endorsed by the relevant Head of Service at least six months before the young person's 18<sup>th</sup> birthday.

6.5 The young person's allocated Social Worker will convene a planning meeting prior to the young person's 18<sup>th</sup> birthday with the purpose of completing a Staying Put Agreement in collaboration with the young person and Foster Carer (**Reference: Staying Put Living Together Agreement Appendix 1**). The Agreement must set out:

- The financial arrangements
- The support and supervision arrangements in cases where another foster child/ren remains with the family
- The 'house rules'

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- Arrangements for financial review and ending the placement.
- 6.6 The outcome of the meeting should be discussed at the young person's Statutory Review and the decision ratified by the Independent Reviewing Officer.
- 6.7 The change in circumstances must be recorded on MOSAIC. The Supervising Social Worker must note any changes on the carer(s) record and the allocated Social Worker on the young person's record.

### **Practice Guidance**

When Foster Carer(s) indicate that they want to enter a Staying Put Arrangement, the Supervising Social Worker in the Fostering Service will discuss with them whether or not they wish to remain approved Warrington Borough Council Foster Carers, either to continue with existing placement(s) or to take new placement(s).

#### **Ceasing to be a Foster Carer**

If Foster Carer(s) decide that they no longer wish to foster for Warrington Borough Council they are free to submit their resignation in writing, in which case their approval will automatically end 28 days after it is received by the Fostering Service.

#### **Remaining a Foster Carer**

In circumstances where the Carer(s) wish to remain approved, the Supervising Social Worker must consider the impact of the new Arrangement and undertake a formal review of the Foster Carer(s) approval. The review must take place in advance of the Staying Put Arrangement being formalised so that the Carer(s) are aware of the implications. It will also enable the Fostering Service's Decision Maker to act upon its recommendations, including any changes to the terms of approval.

If the Fostering Service agrees that the Foster Carer(s) should remain approved, but not take any further Placements so that they can resume fostering in the future, then the Supervising Social Worker must continue to ensure that the following activities are undertaken:

- Regular visits, including an annual unannounced visit
- Reviews of approval
- Provision of training, advice, information and support
- Support for continuing professional development.

## **7.0 SUPPORTING STAYING PUT ARRANGEMENTS**

### **7.1 ADVICE AND GUIDANCE**

7.1.1 When Staying Put Carer(s) are also Foster Carer(s) they will continue to receive supervision and support in that role from their Supervising Social Worker, who will need to take account of the fact that the household includes a young person for whom they are Staying Put Landlord.

7.1.2 In circumstances where a young person was placed in an Independent Fostering Agency placement which transferred to Staying Put Arrangement advice and guidance will be provided by Warrington Borough Council's Fostering Service as required.

7.1.3 When Foster Carer(s) cease to foster in order to provide Staying Put, advice and guidance can be sought from the Fostering Service by the Staying Put Landlord as and when required.

### **7.2 FINANCIAL SUPPORT**

7.2.1 Financial support will be made available to all former Foster Carer(s) who offer Staying Put Arrangements to young people considered eligible for the scheme as set out in [Section 4.0 Eligibility Criteria](#). This includes those who were carer(s) with Independent Fostering Agencies.

7.2.2. Financial support for existing Staying Put Arrangements will remain 'as is' and will not be subject to any changes introduced by this Policy.

7.2.3 As of the 1 July 2018, payments to Staying Put Landlords will be made in line with Warrington Borough Council's Fostering Weekly Level 1 Fostering Rate for young people aged 16+. Former Foster Carers will receive a flat rate of £215.74 per week for offering the Arrangement.

7.2.4 This rate will be payable until the Staying Put Arrangement ceases.

7.2.5 Staying Put Landlords will also receive a 50% council tax rebate if they reside in the Warrington area.

### **7.3 RETAINERS**

#### **7.3.1 ARMED SERVICES**

If a young person joins the armed services the former Foster Carer(s) will be paid 25% of the Staying Put Allowance while the young person completes the first six months of basic training. This is an acknowledgement that within the period of basic training, the

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young person may decide not to pursue a career within the Armed Forces and may wish to return to the home of their former Foster Carer(s), whilst they plan their future education, employment or training.

After the basic training ends, a Retainer will not be paid.

Where a young person's room has been kept exclusively for their use, and the young person returns to stay for a period of time, (such as during a period of leave from the Armed Forces), the former Foster Carer(s) will be paid the 1 July 2018 Allowance, for the period of the stay.

If the young person returns to their former Foster Carer(s) but their own room has not been kept exclusively for them (i.e. if they are using a temporary/sofa bed) the young person will be expected to cover the cost of their stay, at a rate agreed between the young person and their former carers.

### **7.3.2 UNIVERSITY**

A retainer will not be paid when a young person is living away at University.

During breaks from University the former Foster Carer(s) will be entitled to the full Staying Put Allowance if the young person returns to their own bedroom.

If the young person returns to their former Foster Carer(s) but their own room has not been kept exclusively for them (i.e. if they are using a temporary/ sofa bed) the former Foster Carer(s) will be paid an allowance of 50% of the standard Staying Put Allowance, while the young person is staying with them.

### **7.4 YOUNG PEOPLE'S CONTRIBUTIONS**

7.4.1 Young people in Staying Put Arrangements are expected to pay for their own personal items which were previously contained within the Foster Carers Weekly Fostering Allowance.

7.4.2 Earnings or benefits will replace the pocket money and clothing allowance in the first instance.

7.4.3 Young people commencing Higher Education courses at any age are not eligible to claim means tested benefits and therefore will be expected to cover these costs through employment or their Student Loan.

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## **8.0 STATE BENEFITS**

### **8.1 FORMER FOSTER CARER(S)**

8.1.2 Payments made by Warrington Borough Council to former Foster Carer(s) under [section 23C of the Children Act 1989](#), will always be disregarded by the Department for Work and Pensions (DWP) when calculating their entitlement to benefits, where they provide a Staying Put Arrangement if the young person was formerly in the claimant's care as an eligible child and continues to live with the claimant within a non-commercial family type arrangement.

8.1.3 This applies to a young person remaining with their former Foster Carer(s) on a familial basis until:

- They first leave the arrangement (even if they later return); or
- The age of 21; or
- They complete an agreed programme of education or training being undertaken on their 21<sup>st</sup> birthday, provided that they live in the arrangement continuously.

8.1.4 Where a young person contributes to the Arrangement by paying rent or claiming housing benefit this will be counted as income and taken into account in calculating any means tested benefits. For this reason Warrington Borough Council advise that the young person does not claim for the housing element of Universal Credit.

### **8.2 YOUNG PEOPLE**

8.2.1 Young people remaining in a Staying Put Arrangement can, and are expected to be in employment or claim a Universal Credit or other appropriate means test benefits for their personal needs from their 18<sup>th</sup> birthday where they are eligible to do so. Earnings or benefits will replace the pocket money and clothing allowance previously contained in the Foster Carers Weekly Fostering Allowance.

8.2.2 The Social Worker or Personal Advisor must work with the young person to maximise their entitlement to benefits.

8.2.3 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.

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## **9.0 INCOME TAX**

- 9.1 HMRC defines Staying Put Arrangements more broadly than the [Children Act 1989](#) definition used by the DfE or that used by the DWP. The HMRC definition covers arrangements where the young person was looked after immediately prior to their 18th birthday; and has a pathway plan; and a proportion of the allowance paid to the former Foster Carer is paid by the local authority.
- 9.2 In such circumstances the arrangement will be regarded as Staying Put until the young person reaches the age of 21, or completes an agreed programme of education or training being undertaken on their 21<sup>st</sup> birthday.
- 9.3 The Staying Put Landlord need not ever have been a Foster Carer, so this approach covers some arrangements which are beyond the scope of the [Children Act 1989](#) definition.
- 9.4 The Staying Put Landlord will receive the same qualifying care relief for income tax purposes as Foster Carers, as set out in [HMRC Helpsheet 236](#). They are regarded as self-employed in the same way as Foster Carers.

## **10.0 INSURANCE**

- 10.1 Warrington Borough Council advises those adult entering Staying Put Arrangements to inform the Insurance Company providing their household insurance when a young person changes from being a foster child to an adult, and to check that their insurance arrangements continue to provide adequate household cover.
- 10.2 As Foster Carers they currently have legal protection insurance provided and paid for by Warrington Borough Council in the case of an allegation made against them by a Foster Child. This legal protection insurance cover does not continue under a Staying Put Arrangement.

## **11.0 DBS CHECKS**

- 11.1 If the former Foster Carer(s) continues to have Foster Children placed with them, 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. These DBS checks will be continued as necessary.

## **12.0 MONITORING AND REVIEW**

- 12.1 The Fostering Service will maintain a record of Staying Put Arrangements and will report this information in their quarterly monitoring reports. The record should include:

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- The number of carers involved in Staying Put arrangements
- The number of young people in Staying Put arrangements.

12.2 Whilst **Fostering Regulations** no longer formally apply when a young person reaches the age of 18, the following requirements and standards will continue to govern Staying Put Arrangements in Warrington where no fostered child/ren are living in the household (Staying Put only):

- The Pathway Plan which includes the roles, responsibilities and the expectations of the young person and the adult and will be reviewed at least every six months including the Staying Put Arrangement
- The Living Together Agreement which sets out the financial contribution, and arrangements for review and ending the placement.

### **13.0 ENDING STAYING PUT ARRANGEMENTS**

13.1 A former relevant child who is pursuing further education or training may be entitled to support until the age of 25, but beyond their 21<sup>st</sup> birthday this cannot be defined as Staying Put Arrangement.

13.2 The Staying Put Arrangement will cease in line with statutory guidance issued by DfE when the young person:

- a) First leaves the arrangement; or
- b) Reaches their 21<sup>st</sup> birthday, if continuously, and still living in the arrangement since their 18<sup>th</sup> birthday; or
- c) Completes the agreed programme of education or training (as detailed in their Pathway Plan) being undertaken on their 21<sup>st</sup> birthday, having lived continuously in the Staying Put Arrangement since their 18<sup>th</sup> birthday.

13.3 Staying Put Arrangements are made through agreement of the young person and their former Foster Carer(s), so either is able to bring the arrangement to an end before the young person reaches the age of 21.

13.4 In the event that Warrington Borough Council regards the arrangement as not consistent with the young person's welfare it may withdraw support, but does not have the legal power to bring the arrangement to an end. However, good practice would always be to make, and if necessary to end, arrangements by three-way agreement.

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- 13.5 It is the responsibility the Personal Adviser to work with the young person and help to plan a move to an alternative living arrangement from the Staying Put Arrangement. This should be achieved in a planned way and documented in the young person's Pathway Plan.
- 13.6 In cases where a young person or the former Foster Carer(s) decide that they would like the arrangement to come to an end, each party should give at least 28 days' notice to the Personal Adviser.
- 13.7 Where a young person displays unacceptable behaviour, participates in activities that are deemed inappropriate or persistently fails to meet their responsibilities as agreed in the Living Together Agreement, the Personal Adviser should call a disruption meeting. Any new or changed requirements, responsibilities or house rules resulting from this meeting should be set out and signed in an updated Living Together Agreement.

-END OF DOCUMENT-

**Appendix 1**

**Staying Put - Living Together Agreement**

**The Purpose of the Agreement**

- Let you know what support you can expect from Warrington Borough Council and your former Foster Carer
- To make clear the expectations that will be placed on you whilst you live in a Staying Put Arrangement
- To identify areas of support which will assist you to prepare for living independently at a time when you are ready to move on to live in your own tenancy.

**Name and details of Staying Put Landlord**

Name:.....

Address:.....  
.....  
.....

Telephone number: .....

Mobile number: .....

Email address: .....

**Details of the young person**

Name of young person: .....

Date of birth: .....

Mobile number: .....

Email address: .....

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Name of Personal Adviser: .....

Telephone number; .....

Email address: .....

**What you can expect from your Personal Adviser**

- To receive advice, support and information. This may include advice about money, jobs, benefits, and employment, training and housing options
- To be provided with information about Staying Put
- To be provided with information about your rights
- To listen to you and take account of your views about your Staying Put living together agreement.

**What you can expect from your Staying Put provider**

- Advice and support that will enable you to continue to develop independence living skills
- Safe, secure and supportive environment
- A bedroom of your own and access to all facilities of the home, inclusive of kitchen and laundry facilities
- The provision of a front door key
- Clear information about boundaries and expected behaviour.

**The Staying Put Living Arrangements**

**Arrangements to support the development of independent living skills**

The arrangements that are in place to support the young person to develop independence skills should cover such things as cooking and preparation of meals, use of washing machine, expectations on completion of safe care task.

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**Financial Arrangements**

In this area arrangements should be made clear about the level of financial contribution the young person should make and any expectations around benefits the young person will need to claim.

**Family and friends visiting and staying agreement**

**Overnight and weekend stays agreement**

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**Education, training and employment arrangements**

**Health arrangements**

**Arrangement /plans (if applicable at the time) to move on to other accommodation**

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**Arrangements relating to other children or foster children in the household**

**Arrangements relating to specific issues relating to the young person inclusive of any risk management issues**

Signature of the Staying Put provider:

Date:

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Signature of the young person:

Date:

This agreement will be reviewed at 6 monthly intervals

Date of the planned review:

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