

BENEFITS AND LEAVING LOCAL AUTHORITY CARE

Access to some Social Security benefits is generally restricted for 16 and 17 year olds – even more so for those who are leaving care.

This leaflet outlines who can claim which benefit. It concentrates on 16 and 17 year olds and is split into mean-tested and non means-tested benefits.

- **MEANS-TESTED BENEFITS:**
Income Support / income-based JSA / income-related Employment & Support Allowance and Housing Benefit

Most 16 and 17 year old Care Leavers cannot claim these benefits. Financial assistance is to be provided by a Local Authority instead, even though they are no longer in care.

The Local Authority is responsible for all the needs of a child in foster or residential care. From the age of 16 they are an “eligible” young person if still in care. When they leave care they are a “relevant” young person, and cannot claim benefits.

A ‘Care Leaver’ is defined (for the purpose of this restriction) as being someone who was:

- Subject to a care order, or provided with accommodation under sections 20, 23 or 23A of the Children Act 1989, and
- looked after for at least 13 weeks after the age of 14 and were still being looked after when reaching 16.

The 13 weeks do not need to be continuous. Any short-term placements [four weeks or less], after which the young person returns to the care of a parent or someone acting as a parent, count towards the 13 weeks. However, if the short breaks were part of respite care package for a disabled child, they would not count.

Care Leavers are also excluded from these benefits if they are not subject to a care order, but were in

- a hospital
- detained in a remand home, or
- young offenders institution (or similar)

when they reached 16 and immediately prior to that were looked after by a Local Authority for at least 13 weeks since their 14th birthday.

Care Leavers who can claim

The following young people can claim Income Support / Jobseekers Allowance (ib) / ESA (ir) for living costs - but not Housing Benefit to pay their rent (the Local Authority must continue to help with accommodation costs):

- lone parents
- those incapable of work [including people appealing against an incapacity for work decision]
- “disabled workers” [being someone whose hours of work, or earnings, are less than that for a person without the disability, in the same job]
- disabled or deaf students
- blind people
- young people in full-time non-advanced education who are also lone parents or severely disabled and who are unlikely to get employment in the next 12 months. “Full-time” is at least 12 hours per week, “non-advanced” is one leading up to a qualification below the standard of a degree, NVQ level 4, HND or similar.

However, Income Support / Jobseekers Allowance / ESA and Housing Benefit can be claimed if they have been in a “family placement” for at least six months and have left Local Authority care in England or Wales - unless (England only) the placement has broken down.

A 16/17 year old leaving, for example, foster care to live with someone with parental responsibility continues to be regarded as a ‘relevant’ person for 6 months, and can still receive financial help from a Local Authority.

After 6 months this status lapses. However, if the placement subsequently falls through, the 16/17 year old can return to the Local Authority for help. S/he will again be a ‘relevant’ young person, whose eligibility to benefits is affected as outlined above.

Once a Care Leaver reaches 18

[This leaflet does not cover the ‘Staying Put’ scheme]

The above restrictions do not apply to anyone once they are aged 18 or over, and they claim benefits as normal even if still in contact with the Local Authority.

Any payments made by the Local Authority to the Care Leaver post-18 should be made under Section 24, thus won’t affect their entitlement to means-tested benefits.

● **NON MEANS-TESTED BENEFITS**

There are no specific restrictions on Care Leavers claiming the following:

- Disability Living Allowance [paid for personal care and/or where there are difficulties getting around]
- Incapacity Benefit [for those incapable of work for at least 28 weeks] or youth Employment & Support Allowance
- Statutory Maternity Pay/Statutory Sick Pay/Maternity Allowance
- Contributory Jobseekers Allowance [although eligibility is unlikely as it requires the payment of National Insurance Contributions].

The information in this fact sheet is correct as of April 2009

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Produced by: Warwickshire Welfare Rights Advice Service

Funded by: Warwickshire County Council

Charity Registration No. 1113524

Company No. 5730678

