



LEAVING CARE DUTIES

*How to stop care leavers being let down
and left behind*

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To be covered:

- The leaving care duties - a (very) brief overview
- Topic 1: sections 17 and 20 – LAs avoiding their leaving care duties
- Topic 2: what it means to be a good corporate parent
- Topic 3: independent personal advisors

Leaving care duties: an overview

- Children Act 1989, Part III. In particular:
 - Sections 23C to 24C
 - Schedule 2 paras 19A-19C
- Care Planning, Placement and Case Review (England) Regulations 2010/959 ("Care Planning Regs 2010")
- The Care Leavers (England) Regulations 2010 ("Care Leavers Regs 2010")
- Statutory Guidance *Volume 3: planning transition to adulthood for care leavers* October 2010 (revised January 2015) ("the Guidance")

Leaving care duties: an overview

- Full duty owed to a ‘former relevant child’
 - ‘looked after’ for a period amounting to 13 weeks beginning after the age of 14, and finishing after 16
- More limited duty to ‘person qualifying for advice and assistance’
 - ‘looked after’ for any length of time between age of 16 and 18

Leaving care duties: an overview

- The key elements are:
 - A personal advisor
 - A pathway assessment
 - A pathway plan
 - Review of the pathway plan

Leaving care duties: some key outcomes

- Transition planning starts early (no later than three months after turning 16)
- Care leaver feel supported (personal advisor)
- Holistic:
 - Physical, emotional and mental health
 - Continued education, training and employment
 - Independent living skills
- Assessment and planning achieves specificity (*R (Deeming) v Birmingham City Council* [2006] EWHC 3719 (Admin))

Topic 1: sections 17 and 20 – LAs avoiding their leaving care duties

- Section 17:
 - Broad general duty
 - Not ‘looked after’
- Section 20:
 - Mandatory duty to accommodate
 - Child is ‘looked after’
- Offering accommodation under section 17 rather than section 20
 - It saves local authorities money

- R (M) *Hammersmith and Fulham London Borough Council* [2008] UKHL 14 – a homeless child will need more than just accommodation:

"Such a young person has needs over and above the simple need for a roof over her head and these can better be met by the social services. Unless the problem is relatively short-term, she will then become an eligible child, and social services accommodation will also bring with it the additional responsibilities to help and support her in the transition to independent adult living. It was not intended that social services should be able to avoid those responsibilities by looking to the housing authority to accommodate the child" (at §31).

- *R (G) v Southwark London Borough Council* [2009] UKHL 26;
 - 17 year old – LA considered just needed “help with accommodation”
 - But each section 20 criteria were met
 - Hale: *"were not entitled to 'sidestep' that duty by giving the accommodation a different label"*

- Still happening, ALL THE TIME!
- Check policies (eg Camden changed policy in 2016 following legal challenge):
"where a young person is assessed by [Family Services and Social Work division "FSSW"] as not requiring accommodation under section 20 because they only have a housing need..."
[emphasis added]

Topic 2: what it means to be a good corporate parent

- Practitioners should (Guidance, [1.10]):
 - Ask is this good enough for my own child?
 - Give second chances
 - Ask whether it is tailored to individual needs

Children and Social Work Act 2017, section 1:

1 Corporate parenting principles

(1) A local authority in England must, in carrying out functions in relation to the children and young people mentioned in subsection (2), have regard to the need—

- (a) to act in the best interests, and promote the physical and mental health and well-being, of those children and young people;*
- (b) to encourage those children and young people to express their views, wishes and feelings;*
- (c) to take into account the views, wishes and feelings of those children and young people;*
- (d) to help those children and young people gain access to, and make the best use of, services provided by the local authority and its relevant partners;*
- (e) to promote high aspirations, and seek to secure the best outcomes, for those children and young people;*
- (f) for those children and young people to be safe, and for stability in their home lives, relationships and education or work;*
- (g) to prepare those children and young people for adulthood and independent living.*

Children and Social Work Act 2017, section 2:

2 Local offer for care leavers

- (1) A local authority in England must publish information about—
- (a) services which the local authority offers for care leavers as a result of its functions under the [Children Act 1989](#);
 - (b) other services which the local authority offers that may assist care leavers in, or in preparing for, adulthood and independent living.
- (2) For the purposes of subsection (1), services which may assist care leavers in, or in preparing for, adulthood and independent living include services relating to—
- (a) health and well-being;
 - (b) relationships;
 - (c) education and training;
 - (d) employment;
 - (e) accommodation;
 - (f) participation in society.
- (3) Where it considers appropriate, a local authority in England must publish information about services for care leavers offered by others which the local authority has power to offer as a result of its functions under the [Children Act 1989](#).
- (4) Information required to be published by a local authority under this section is to be known as its “local offer for care leavers”.

New Guidance:

Applying corporate parenting principles to looked-after children and care leavers (February 2018)

1.1 The role that councils play in looking after children is one of the most important things they do. Local authorities have a unique responsibility to the children they look after and their care leavers (relevant and former relevant children). In this context local authorities are often referred to as being the ‘corporate parent’ of these children and young people, and the critical question that local authorities should ask in adopting such an approach is: ‘would this be good enough for my child?’

Case study: 'Miss B'

Topic 3: independent personal advisors

- Appointed to every eligible child: Sch 2, para 19C
- And appointed asap: *R (G) v Nottingham CC* [2008] EWHC 400 (Admin)
- Perform the functions set out in regulation 44 of the Care Planning Regs 2010

Topic 3: independent personal advisors

- Regulation 44 Care Planning Regs:

The personal adviser's functions in relation to C are to—

(a) provide advice (including practical advice) and support,

(b) participate in reviews of C's case ...

(c) liaise with the responsible authority in the implementation of the pathway plan,

(d) co-ordinate the provision of services and take reasonable steps to ensure C makes use of such services,

(e) remain informed about C's progress and wellbeing, and

(f) maintain a written record of their contacts with C.

Topic 3: independent personal advisors

- See *R(J) Caerphilly CBC* [2005] EWHC 586 (Admin):
 - The PA is an advocate for the child
 - Cannot, therefore, be responsible for drafting the plan
 - Must be single-mindedly focused on the PA role

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