



## Children's Services

# STAYING PUT POLICY 2016 – 2017

“Arrangements for Care Leavers aged eighteen and above to stay on with their former foster carers”

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## Introduction

The Care Matters White Paper contained a significant focus on improving the support for children preparing for adulthood, including a pilot programme enabling young people to remain with their foster carers beyond the age of 18. To meet the commitments in the White Paper and the duties towards care leavers in the Children and Young Persons Act 2008, the Care Planning, Placement and Case Review Regulations and Guidance 2010 and the Planning Transition to Adulthood for Care Leavers Regulations and Guidance 2010 an emphasis was placed on a more gradual approach to planning transition to adulthood. The average age of leaving home is rising and the transition to adulthood is increasingly becoming more complex and elongated. The “Staying Put” policy framework requires local authorities to set out local protocols and procedures for extending foster placements as “Staying Put” arrangements in order to support children/young people’s transition to adulthood within a family and household supported environment. The intention being to ensure young people can remain with their former foster carers until they are prepared for adulthood, can experience a transition akin to their peers, avoid social exclusion and be more likely to avert a subsequent housing and tenancy breakdown.

The implementation of Section 98 of the Children and Families Act 2014 in May 2014 set out a specific duty on local authorities to enable and support “Staying Put” arrangements.

Hertfordshire County Council is committed to preventing social exclusion amongst care leavers and has developed the following “Staying Put” policy in order to ensure that they can continue to live with former foster carers after their 18<sup>th</sup> birthday and make the transition to independent living at a pace that suits their needs.

The policy sets out:

1. The process for extending a foster care placement beyond a young person’s eighteenth birthday into a “Staying Put” Supported or “Staying Put” Lodgings arrangement;
2. The financial requirements and benefit issues for young people;
3. The financial rates and payment implications for foster carers and “Staying Put” carers;
4. The welfare benefit issues for foster carers and “Staying Put” carers;
5. The income tax and national insurance implications and issues for foster carers and “Staying Put” carers.

This “Staying Put” policy has been developed to address the requirements of the:

- Children and Families Act 2014;
- DfE, DWP and HMRC “Staying Put” Guidance 2013;
- Care Planning, Placement and Case Review (England) Regulations and Guidance 2015;
- Planning Transition to Adulthood for Care Leavers (England) Regulations and Guidance 2010 (revised 2015);
- Fostering Service (England) Regulations 2011/2013 and related Guidance (and amendments);
- National Minimum Standards (NMS) for Fostering Services (2011), (and amendments);

Chapter 7, Para 7.19 to 7.59 - Page 63 to 69 of the Planning Transition to Adulthood for Care Leavers Regulations and Guidance 2010 (revised 2015) and Chapter 3, Para 3.125, Page 34 of the Fostering Service (England) Regulations 2011 set out a requirement that each local authority has a “Staying Put” policy and Standard 12.4, Page 26 of the National Minimum Standards sets out the service standard relating to the local authorities’ “Staying Put” policy.

## **“Staying Put” Definitions**

### **Department for Education Definitions**

The term “Staying Put” is used to define the following arrangements where:

1. A young person who was looked after immediately prior to their 18<sup>th</sup> birthday (as an eligible child) continues to reside with their former foster carer/s;
2. The carer/s were acting as foster carers to the child immediately prior to the young person’s 18<sup>th</sup> birthday (that is, the carers were approved as foster carers in accordance with the Fostering Service (England) Regulations 2011/2013 and the child had been placed with them by the local authority, or via an Independent Fostering Agency);
3. A young person is deemed an eligible child, within the meaning of paragraph 19B(2) of Schedule 2 to the Children Act 1989, immediately before he/she reached eighteen;

4. The “Staying Put” arrangement is set out in the child/young person’s Pathway Plan;
5. A proportion of the allowance paid to the “Staying Put” carer/s is paid by the Local Authority Children’s Services under section 23C of the Children Act 1989;
6. The “Staying Put” arrangement extends until:
  - the young person first leaves the “Staying Put” arrangement;or
  - the young person reaches their 21<sup>st</sup> birthday, if continuously, and still living in the arrangement;or
  - the young person completes the agreed programme of education or training being undertaken on their 21<sup>st</sup> birthday, if continuously living in the arrangement since their eighteenth birthday.

## **Department for Work and Pensions Definitions**

The specific DWP legislation covering “Staying Put” arrangements highlights that (1) where a young person continues to reside with their former foster carer after their 18<sup>th</sup> birthday, and (2) where the child was looked after immediately prior to their 18<sup>th</sup> birthday, and (3) where the payments are made by the local authority to the carer under section 23C of the Children Act 1989, the payments are disregarded in calculating the carers entitlement to means tested benefits.

When a commercial arrangement is made, i.e. any element of the cost of the arrangement comes from a source other than section 23C; the non-section 23C element will be taken into account in the calculation of the “Staying Put” carers own means tested benefit claim.

Additionally, the disregard is lost on the whole payment (section 23C and non-section 23C elements) when the young person first leaves the “Staying Put” arrangement, should the young person return to their former foster/“Staying Put” carer or, move to another carer after their 18<sup>th</sup> birthday.

## HM Revenue and Customs Definitions

The term “Staying Put” (HMRC) is used to define arrangements where:

1. A young person was looked after immediately prior to their 18<sup>th</sup> birthday;
2. The young person has a Pathway Plan;
3. A proportion of the allowance paid to the “Staying Put” carer/s is paid by the Local Authority;
4. “Staying Put” arrangements can extend until:
  - the young person reaches their 21<sup>st</sup> birthday;or
  - the young person completes the agreed programme of education or training being undertaken on their 21<sup>st</sup> birthday.

## Definitions Overview

Where possible; DfE, DWP and HMRC definitions and frameworks relating to “Staying Put” have been harmonized. However, given the complexity of the three different legislative frameworks relating to “Staying Put” arrangements, and the fact that some of the legislation does not cover all four countries in the United Kingdom, this has not been wholly possible.

## Hertfordshire - “Staying Put” Scheme

The primary aim of “Staying Put” is to promote a gradual transition from care to adulthood and independent living that recognises that many young people in care often experience delayed maturity, and that their 18<sup>th</sup> birthday may be an arbitrary and inappropriate point to leave a familial and foster care household. Therefore, the Hertfordshire “Staying Put” scheme is designed to ensure young people do not experience a sudden disruption to their living arrangements, that educational and training achievement and continuity is promoted, that all young people can make a gradual transition from care to independence or to an Adult Service.

The Hertfordshire “Staying Put” scheme has two levels to ensure that young people and carers are supported and “Staying Put” Carers are remunerated appropriately.

- “Staying Put” Supported

“Staying Put” carers are paid the same level of skills fee and fostering maintenance allowance that they received when the young person was age 17, minus £48.54 per week. The primary change is that £48.54 of the weekly fostering maintenance allowance ceases, and is replaced by the young person’s earnings or by claiming a benefit and the young person is required to pay a rent element (either from earnings from employment and/or housing benefit). The “Staying Put” carer is no longer required to pay the £48.54 to the young person and the rent and/or housing benefit is paid directly to Hertfordshire County Council.

- “Staying Put” Lodgings

“Staying Put” carers are paid the same level of fostering maintenance allowance that they received when the young person was age 17, minus £48.54. The primary change is that £48.54 of the weekly fostering maintenance allowance ceases and is replaced by the young person’s earnings, by their benefit claim, or by their higher education allowance. In addition, the young person is required to pay a rent element (either from their earnings from employment and/or housing benefit or their higher education allowance). The “Staying Put” carer is no longer required to pay the £48.54 to the young person and the rent and/or housing benefit, higher education rent allowance is paid directly to Hertfordshire County Council. In addition “Staying Put” lodgings carers received a £20.00 per week support allowance.

- “Staying Put” – Family and Friends

Family and Friends “Staying Put” arrangements can fit within the criteria for both “Staying Put” Supported and “Staying Put” Lodgings. Family and Friends “Staying Put” arrangements can be extended until the young person’s 21<sup>st</sup> birthday, or until they complete the education/training course being undertaken on their 21<sup>st</sup> birthday.

The payment rate for a “Staying Put” Family and Friends arrangement is £174.46.

- “Staying Put” – Independent Fostering Agency Placements

“Staying Put” Supported - IFA

Where an IFA Placement meets the criteria for “Staying Put” Supported, the “Staying Put” carer will receive the same level of payment that they did when the young person was aged 17, minus £48.54 per week. The young person is

also liable to pay rent (housing benefit) of £98.00 per week, which is either paid to Hertfordshire County Council or the “Staying Put” carer. If the rent/housing benefit is paid directly to the “Staying Put” carer an equivalent amount will be deducted from the “Staying Put” Carers payment.

The agency will receive a payment to manage the “Staying Put” arrangement at 50% of the rate they received when the young person was aged 17.

#### “Staying Put” Lodgings - IFA

Where an IFA Placement meets the criteria for “Staying Put” Lodgings, the “Staying Put” carer will receive the same level of payment as a Hertfordshire “Staying Put” Lodgings carer £174.46 per week. The young person is also liable to pay rent (housing benefit) of £98.00 per week, which is either paid to Hertfordshire County Council or the “Staying Put” carer. If the rent/housing benefit is paid directly to the “Staying Put” carer an equivalent amount will be deducted from the “Staying Put” Carers payment.

The agency will receive a payment to manage the “Staying Put” arrangement at 25% of the rate they received when the young person was aged 17.

All other expectations are in line with the Hertfordshire “Staying Put” policy requirements.

“Staying Put” Supported is used to define a set of arrangements where-by foster care placements are extended on the grounds of 1) education/training, 2) vulnerability, 3) planned move-on and 4) disability after a young person reaches their 18<sup>th</sup> birthday. The length of the “Staying Put” Supported arrangement varies depending on the reason for the “Staying Put” Supported arrangement.

“Staying Put” Lodgings is used to define any arrangement which does not fit within the 4 criteria above and where both the foster carer and young person want the placement to continue, either when the young person reaches the age of 18, or when the above 4 criteria cease.

All of these arrangements come within the DfE, DWP and HMRC “Staying Put” criteria. Where a young person leaves a “Staying Put” arrangement and subsequently returns the DWP “Staying Put” framework no longer applies.

## **Terminology**

From the age of 18 young people are no longer legally ‘in care’ or ‘looked after’ and therefore fostering arrangements and legislation relating to children placed with foster carers no longer applies. In circumstances where a young person remains with their



former foster carer/s after their 18<sup>th</sup> birthday, the arrangement should therefore be deemed an 'age eighteen and older arrangement' or "Staying Put" arrangement. The term 'arrangement' should be used rather than placement; the term 'placement' denotes a situation where the local authority arranged and placed the child with a foster carer. Once the child reaches the age of 18 and legal adulthood, the local authority is no longer making a placement, but facilitating a "Staying Put" arrangement for the young person.

## **Changing Status - Foster Care Placement to "Staying Put" Arrangement**

Following a young person's 18<sup>th</sup> birthday, the legal basis on which they occupy the property (former foster care home) changes and they become an 'excluded licensee' who is affectively lodging in the "Staying Put" carer/s home. Whilst the term 'excluded licensee' is a legal one, it should not denote that the young person will be treated differently than they were as a fostered child. In addition, the carer may also become, and be deemed the young person's landlord.

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

An excluded licensee can be asked to leave the property by the "Staying Put" carer, who must give 'reasonable notice'. In extreme circumstances it may be considered reasonable for the "Staying Put" carer to give very short notice and ask the young person to leave on the same day.

Given that the former foster carer is receiving a payment of rent (from the local authority) for the young person if they do not pay rent from housing benefit or their earnings a license agreement is still created.

## **Procedure for Extending a Foster Care Placement into a "Staying Put" Arrangement**

The Leaving Care Assessment of Need begun at the age of 15¾ should identify the timescale required for young people to move to independence and should be used as the framework for beginning to explore the following questions and issues:

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. Is the young person and their foster carer/s in agreement to a “Staying Put” arrangement:
3. Does 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;
5. Does the foster carer/s understand the changes in their funding arrangements associated with a “Staying Put” arrangement;
6. Does the foster carer/s understand the changes in funding when they transfer from “Staying Put” Supported to a “Staying Put” Lodgings arrangement;
7. 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;
8. What is the parallel plan for the young person should the “Staying Put” arrangement not be viable;
9. What are the preparation for independence tasks, goals and targets to be achieved during the last two years of foster care and when the placement becomes a “Staying Put” arrangement;
10. What is the plan for converting the “Staying Put” arrangement into an Adult Placement (Shared Lives) where the young person has a disability and meets the Adult Services ‘Eligibility’ criteria.

To ensure sufficient time is available to make the necessary planning arrangements for extending a placement beyond a young person’s 18<sup>th</sup> birthday, a “Staying Put” professionals meeting should take place as part of the Leaving Care Assessment of Need, this meeting should take place immediately prior to the young person’s 16<sup>th</sup> birthday.

The “Staying Put” professionals meeting should include the foster carer/s, the foster carer/s supervising social worker and young person’s after care social worker/personal adviser and should establish the viability and likelihood of a “Staying Put” arrangement occurring. The meeting should identify all tasks that are required to extending the fostering placement into a “Staying Put” arrangement and apportion tasks, roles and responsibilities. The meeting should also explore the impact on the foster carers’ financial circumstances should the placement/arrangement continue

after the young person's 18<sup>th</sup> birthday. The meeting and pre-meeting process should follow the three step sequence as set out below:

1. Young person's after care social worker/personal adviser and supervising social worker to discuss 'Staying Put' issues with the foster carer.
2. Young person's after care social worker/personal adviser to discuss 'Staying Put' issues with the young person.
3. Following separate discussions with the young person and foster carer, and when 'Staying Put' by the two parties (and local authority) is agreed in principle, formal and joint planning begins.

**Note:** Young people should not be included in the initial meeting and planning process, and should only be included after their foster carer/s have confirmed that they are able to retain the young person under a "Staying Put" arrangement once the young person reaches the age of 18 (in principle). This is required in order to ensure the stability of the placement and to avoid unsettling the young person should the foster carers be unable to provide a "Staying Put" arrangement.

The responsibility for co-ordinating the initial "Staying Put" professionals meeting, rests with the young person's after care social worker/personal adviser.

The outcome of the meeting should be presented at the statutory review immediately following the young person's 16<sup>th</sup> birthday.

The outcome of the "Staying Put" professionals meeting should also form the basis of a report presented to Hertfordshire Access to Resources Panel (HARP) when the young person reaches the age of 16½. The initial report presented to HARP acts as the basis of an early alert system regarding planning for the "Staying Put" requirements.

The "Staying Put" professionals meeting should be repeated when the young person reaches the age of 17¼ and should ensure that any final arrangements and requirements are in place by the young person's 18<sup>th</sup> birthday. The outcome of the meeting should be discussed at the young person's subsequent statutory review and the decision ratified by the Independent Reviewing Officer. The outcome of the meeting and decision of the Statutory Review should then form the basis of the report presented to HARP, when the young person reaches the age of 17½, who are responsible for any decision regarding extending a fostering arrangement into a "Staying Put" arrangement.

All meetings should make reference to the reason for the "Staying Put" arrangement, the practical requirements associated with "Staying Put" and also the National

Insurance, Income Tax and Welfare Benefits issues for the foster carer/s/”Staying Put” carer/s and the Welfare Benefit issues for the young person.

All requests for extending a placement after a young person’s 18<sup>th</sup> birthday must be presented to the HARP who must ratify the plan.

The case should be returned to HARP when the young person reaches the age of 18¼ to clarify that all tasks have been completed.

In circumstances where a “Staying Put” Supported arrangement is coming to an end, and all parties feel it would be appropriate to extend the arrangement as “Staying Put” Lodgings arrangement the request should be presented to HARP, 3 months prior to the transition point.

All reports presented to HARP should set out the roles and responsibilities of all involved in the “Staying Put” arrangement, i.e. “Staying Put” carer, Supervising Social Worker, Leaving Care Social Worker/Personal Adviser, Leaving Care Personal Adviser and Young Person.

## **Information to be Presented to the Hertfordshire Access to Resources Panel (HARP)**

The following information should be presented to HARP when the child reaches the age of 17½ setting out the purpose and aims of the “Staying Put” arrangement and any particular milestones, targets and outcomes.

- The overall purpose and aims should be set out in the young person’s Pathway Plan and the day to day arrangements for supporting the young person should be set out in their Living Together Agreement, which is an extension of the Placement Plan.
- Information on tasks, roles and responsibilities should include:
  - Arrangements for supporting the young person to claim any benefits they are entitled too and who will assist them with this task;
  - Arrangements for supporting and promoting education and training;
  - Transition arrangements to an Adult Service and a Adult Placement/Shared Lives Scheme (in Hertfordshire Guideposts Trust);
  - The anticipated length of the “Staying Put” arrangement and the anticipated move-on arrangements;

- What criteria “Staying Put” Supported is being granted for.
- The date the “Staying Put” Supported arrangement will end and the likelihood of it being extended as a “Staying Put” Lodgings arrangement.
- What preparation for independence tasks are to be undertaken and what improved life skills are anticipated by extending foster care as a “Staying Put” Supported and “Staying Put” Lodgings arrangement;
- What are the safeguarding arrangements for the young person, any foster children in placement and the children of the foster carers, has a DBS check been started or completed, is it anticipated that a risk assessment will be required;
- Where a young person is “Staying Put” in an arrangement outside of the Hertfordshire area will they return to Hertfordshire or move to the private sector where they live;
- Any specific vulnerabilities and needs of the young person;
- Information should include the views of the foster carer, young person and IRO and any specific financial issues related to the carer.

The case should be returned to HARP when the young person reaches the age of 18¼ to clarify that all tasks have been completed.

The case should also return to HARP - 3 months before a “Staying Put” Supported arrangement transfers to a “Staying Put” Lodgings arrangement to ensure all transfer and financial arrangements are in place.

## **Extending a Foster Care Placement into a “Staying Put” Supported Arrangement**

### **1) Education/Training**

### **2) Vulnerability**

### **3) Planned Move-On**

## 4) Disability

### Group One – “Staying Put” for Education and/or Training

The funding for the “Staying Put” arrangement on full time education/training grounds can continue from the young person’s 18<sup>th</sup> birthday:

- Until the end of August or September following the completion of the young person’s G.C.S.E, ‘A level’, training or equivalent full time course being undertaken on their 18<sup>th</sup> birthday.

This date is set to enable young people to complete education or training courses, to make a gradual transition to independent living and in order to provide stability until they commence a higher education, or a residential further education course. This provision enables young people to commence one year, or two year full time further education or training courses prior to their 18<sup>th</sup> birthday and remain with former foster carers (on the same funding framework) until the course is completed prior to their 19<sup>th</sup> or 20<sup>th</sup> birthday.

In practice young people may remain with their former foster carer/s for up to two years in order to complete the full time education or training course that they are engaged in on their 18<sup>th</sup> birthday. This provision enables young people to remain with their former foster carers until the 30<sup>th</sup> September after the completion of their course, if undertaking higher education, or one month following the completion of the course if ceasing/completing education or training (on the same funding framework).

Conditionality:

1. The education or training course must be full time (12 hours of contact time);
2. The extension applies to the course, or level of the course that the young person is undertaking on their 18<sup>th</sup> birthday, for example:
  - if a young person reaches the age of 18 in March, and is undertaking the second year of a two year course, the extension would apply until the course is completed in July (see point 3, 4 & 5 below - end of August or September) of the same year (the year of their 18<sup>th</sup> birthday);
  - if the young person reaches the age of 18 in March, and is undertaking the first year of a two year course, the extension would apply until the July (see point 3, 4 & 5 below – end of August or September) following their 19<sup>th</sup> birthday;

- The extension applies to the level of the course that the young person is undertaking on their 18<sup>th</sup> birthday, i.e. if a young person is undertaking a level 1 course on their 18<sup>th</sup> birthday, the extension runs until the completion of the level 1 course ( see point 3);
  - The extension ceases at the point a young person leaves a course or chooses to transfer to another course;
3. Where a young person completes an A level, or an equivalent courses in July and is commencing a university course or residential further education course in the following September/October the education extension will apply until the start of the university/residential course;
  4. Where a young person completes a G.C.S.E., A level, training or an equivalent course in July and is not undertaking a university courses the education extension will apply for one month following the end of the course. Generally to the end of August;
  5. Information about the young person’s education or training course, including the course start and finish dates should be submitted in writing to the H.A.R.P when the young person reaches the age of 17½;
  6. Information required – report format:
    - Name and date of birth of the young person;
    - School or college details;
    - Course details and level of qualification to be taken;
    - Course start and completion dates;
    - Confirmation of young person’s attendance and commitment;
    - Future education or employment aspirations.
  7. At the end of the education/training “Staying Put” Supported extension, the arrangement can transfer to “Staying Put” Lodgings.
  8. Apprenticeships – Where an apprenticeship is deemed ‘programme led’ it comes within the “Staying Put” Supported framework. Where the apprenticeship is employment based it comes within the “Staying Put” Lodgings framework. See Appendix Four

## **Group Two – “Staying Put” due to Vulnerability**

Young people are able to remain with their former foster carer (“Staying Put” carer) due to issues of ‘vulnerability’ for up to one year (on their existing funding framework).

Conditionality:

1. The young person is displaying significantly delayed maturity and extreme difficulties regarding preparing for independence and making the transition to adulthood and independent living. It is acknowledged that the concept of ‘vulnerability’ is vague and can be subjective, and as such, assessing the level of a young person’s ‘vulnerability’ can be difficult. The following guidance and information should be used to inform the HARP Report which needs to be presented when the young person reaches the age of 17½;
2. The Report should focus on the level of the young person’s ‘vulnerability’ and explain why this has occurred, what has been undertaken to assist the young person with the development of; practical, relationship, emotional and resilience skills and how these will be improved and addressed by the young person remaining in the “Staying Put” arrangement. The report should also include information about what support will be provided to increase the young person’s ability to develop independent living skills and their ability to establish and maintain either; a benefit claim, or an education, training or employment activity. The report should identify all forms of support and set out their role in assisting the young person to work towards sustaining independent living. The report should particularly set out the expectations of the “Staying Put” carer in terms of enhancing the young person’s resilience and life skills;
3. The report must highlight the work undertaken to refer the young person to an Adult Service, the work undertaken to assess and demonstrate how the vulnerability is ongoing and most importantly highlight what the “Staying Put” move-on plan is. “Staying Put” on the grounds of vulnerability must be integrated with the broader plan to address the ongoing needs of the young person.
4. “Staying Put” on the grounds of ‘vulnerability’ will only be agreed where it can be demonstrated that the programme of work and support to be undertaken and provided over the following year will address the young person’s needs.
5. In addition, and particularly where a young person is being referred to Health and Community Services, or, the Community Mental Health Team (adult mental health services) the report should also address any of the following issues:



- Learning difficulties;
  - Physical disabilities;
  - Communication difficulties;
  - Special Education Needs and Disabilities;
  - Risk taking behaviour, exploitation and self harm;
  - Mental health issues;
  - Emotional and physical development;
  - Substance misuse.
6. At the end of the vulnerability “Staying Put” Supported extension, the arrangement can transfer to “Staying Put” Lodgings.

### **Group Three – “Staying Put” for a Planned Move-on**

Young people who are awaiting the allocation of a local authority (housing) tenancy, or who are actively bidding for a local authority (housing) tenancy can remain with their former foster carers under a “Staying Put” Supported arrangement (on the carers existing funding framework) for up to 3 months beyond their 18<sup>th</sup> birthday. The Planned Move-on - ‘Awaiting Allocation/Actively Bidding’ extension is available in circumstances where young people are registered on a housing authority waiting list, are bidding on a ‘reasonable’ range of areas within the housing authority boundaries and/or have not been allocated a property by their 18<sup>th</sup> birthday.

#### Conditionality:

1. Where a young person has applied for, and is awaiting the allocation of a local authority housing department secure tenancy the placement can be extended as a “Staying Put” Supported arrangement for a maximum of 3 months after their 18<sup>th</sup> birthday. The young person must be registered with one of the ten Hertfordshire housing departments and be actively participating in the ‘Choice Based Lettings Process’. Additionally, the young person must take realistic and reasonable steps to secure an appropriate offer of accommodation in a reasonable range of areas;

2. Where a young person is placed outside of the Hertfordshire area they must be registered with both their 'Originating Authority' Hertfordshire housing department and the local housing department in the area they are placed. Depending on the rules of the local authority housing department in the area that the young person is placed, Hertfordshire Children's Services may be required to give the young person 28 days notice to leave a placement. This may be a requirement of the local authority homeless department and a pre-requisite for the allocation of accommodation under the 'care leavers' priority need' category;
3. "Staying Put" Supported arrangements for a young person awaiting the allocation of accommodation cannot be extended for more than three months as this period is sufficient to ensure transitional arrangements from foster care to independent living. At the end of the three months the "Staying Put" Supported arrangement can transfer into a "Staying Put" Lodgings arrangement;
4. In general, young people in care can register with the local authority housing department from the age of 16 and are often allocated accommodation immediately prior to their 18<sup>th</sup> birthday;
5. The report for HARP should focus on the reason why the young person has not been able to bid prior to their 18<sup>th</sup> birthday and/or why they have not been successful when bidding and/or why they have not been allocated a tenancy by their 18<sup>th</sup> birthday.
6. At the end of the planned move-on "Staying Put" Supported extension, the arrangement can transfer to "Staying Put" Lodgings.

## **Group Four - "Staying Put" — Disability**

The following guidance applies to Hertfordshire "Staying Put" disability arrangements where a young person is remaining with their carer after their 18<sup>th</sup> birthday due to a disability and the young person has been assessed by Adult Services to meet their 'Eligibility' criteria.

1. "Staying Put" Supported arrangements on the grounds of 'Disability' can be extended until primary case responsibility for the young person is transferred to an Adult Service and responsibility for the carer/s is transferred to an Adult Placement/Shared Lives Scheme.

2. Where it is assessed that the young person will remain with their foster / "Staying Put" carer, the "Staying Put" Supported arrangement will continue until the carer/s are converted to Adult Placement Carers/Shared Lives Carers and are transferred to an Adult Placement Scheme/Shared Lives Scheme.
3. In Hertfordshire the placement should be converted to an Adult Services Placement when the young person reaches the age of 18 or as soon as possible after their 18<sup>th</sup> birthday.

**Note:**

The Hertfordshire Cross Service Protocol (Children's Services – Adult Services) sets out that case, placement and financial responsibility for young people who meet the Adult Services 'Eligibility' Criteria transfers when the young person's Statement of Special Educational Needs (SEND) ceases. Whilst the Statement of Special Education Needs has now been replaced by the Education, Health and Care Plan, the timing of the transfer remains the same, either at age 18 or in the July following the young person's 19<sup>th</sup> birthday.

When applying for "Staying Put" on disability grounds, the HARP report should set out the activities, tasks and timescales regarding transferring the arrangement to an Adult Service.

4. Where a young person is living outside of the Hertfordshire area clarification should be sought as to which local authority will become responsible for the provision of the Adult Service and which Adult Placement/Shared Lives Scheme will become responsible for supporting the carer/s. The Care Act 2014 has resulted in changes to which local authority area the vulnerable young person is likely to be deemed 'Ordinary Resident'.
5. Leaving care responsibility remains with Hertfordshire Children's Services.
6. The assessment undertaken by Hertfordshire Adult Placement Scheme / Shared Lives Scheme (Guidepost Trusts) to convert the "Staying Put" carers to Adult Placement/Shared Lives Carers should commence approximately 6 months before the case, placement and financial responsibility transfers to an Adult Service.
7. Disabled young people are able to claim Employment & Support Allowance (E&SA) from their 16<sup>th</sup> birthday, therefore the pocket money (£12.70), clothing allowance (£20.84) and a mobile phone/personal element (£15.00) - £48.54 in

total will cease to be paid (from the Fostering Maintenance Allowance) to the foster carer when the young person receives their first E&SA payment.

8. Disabled young people should be assisted to claim disability living allowance (if under 16) or personal independence payment (if 16 or over and not already on DLA). This is a non-means tested benefit and therefore has no impact on other benefits or the contribution that the young person or the local authority makes towards their rent. If the disability benefit is claimed, the “Staying Put” carer may be able to claim carer’s allowance. This is paid over and above any financial arrangement regarding the young person. See Social Work Procedures Manual regarding foster carers acting as benefit appointees.
9. A disabled young person in education who gets both E&SA and DLA/PIP may also be eligible to claim the 16-19 year old Bursary – see [www.gov.uk/1619-bursary-fund](http://www.gov.uk/1619-bursary-fund)

## **Exceptional Circumstances**

Where it is assessed that a young person would benefit from remaining in a “Staying Put” Supported arrangement, for example, a) in order to transfer to another course, b) due to their vulnerability or c) whilst awaiting the allocation of a tenancy, a report should be presented to HARP setting out the reason for the request. HARP will evaluate the request and make a recommendation; the final decision is made by the Operations Director Specialist Services.

## **“Staying Put” Lodgings**

“Staying Put” Supported arrangements can be extended into “Staying Put” Lodgings arrangements and continue until the young person reaches the age of 21, or until they complete the education or training they are engaged in on their 21<sup>st</sup> birthday.

“Staying Put” Lodgings arrangement apply to all young people in “Staying Put” who do not fit within the definition of “Staying Put” Supported.

## **Financial Requirements and Personal Benefits for Young People**

Young people remaining in a “Staying Put” arrangement can, and are expected to have earnings from employment or claim a means tested benefit for their personal needs from their 18<sup>th</sup> birthday (from age 16, in regard to E&SA). Earnings or benefits replace the A) pocket money, B) clothing allowance and C) mobile phone/personal element previously contained in the foster carer/s weekly fostering maintenance allowance. All of the following benefits (1 to 4) do not have any impact on the “Staying Put” carer’s welfare benefits, should they be claiming a means tested

benefit. 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.

- All four of the following benefits are means-tested. The capital limit for these benefits is normally £16,000, with savings over £6,000 meaning a reduction in benefits. However, money held in trust fund (including Court of Protection) arising from personal injury (e.g. Criminal Injury Compensation Awards) does not count as capital. CIC Awards are only disregarded for the first 52 weeks following receipt of the award.
1. Disabled young people are able to claim Employment & Support Allowance from their 16<sup>th</sup> birthday; this is paid in two phases and at different rates.
  2. Lone Parents can claim Income Support (until their child reaches their 5<sup>th</sup> birthday, after which they can claim JSA), Healthy Start Vouchers and a Sure Start Maternity Grant 11 weeks before the due birth date (the Sure Start Maternity Grant is only provided once for the oldest or first child). From the birth of their baby they will also be eligible to claim Child Tax Credits and Child Benefit. (Eligible and Relevant lone parents aged 16 & 17 can also claim the above benefits, but only from the birth of their baby). (Approximately £157.74 in total per week – 2016-2017).
  3. Young people can claim Income Support under the ‘Relevant Education’ rules if they remain ‘estranged’ from their family and are undertaking a full time (over 12 hours) education or training course which is under the higher education level. Young people can claim Income Support at any point prior to their 21<sup>st</sup> birthday and will continue to receive payment until the end of the academic year following their 21<sup>st</sup> birthday, i.e. generally until July following their 21<sup>st</sup> birthday. (Income Support rate - £57.90 - 2016-2017).
  4. Where young people are engaged in education or training, it may be possible for them to claim the 16-19 year old Bursary. This payment, if awarded, is disregarded when benefits are calculated so it would be additional income for the young person. See [www.gov.uk/1619-bursary-fund](http://www.gov.uk/1619-bursary-fund).
  5. Jobseekers Allowance where young people are registered as unemployed and are actively seeking employment. (£57.90 - 2016-2017).

Where a young person can claim a welfare benefit, the pocket money (£12.70), clothing allowance (£20.84) and a mobile phone/personal element (£15.00) - £48.54 (2016-2017) in total will cease to be paid (from the Fostering Maintenance Allowance) to the foster carer 4 weeks after the young person’s 18<sup>th</sup> birthday.

## **Housing Benefit for Young People**

1. All young people are expected to pay rent from their 18<sup>th</sup> birthday which can be covered from their earnings or housing benefit; both of which should be paid directly to the Hertfordshire County Council fostering budget and are used to cover the rent/accommodation element of the “Staying Put” arrangement.
2. Young people living in family & friends/connected person “Staying Put” arrangements with sisters, brothers and certain extended family members who are formally approved as foster carers may experience difficulties claim housing benefit. In exceptional situations where a young person is not eligible to claim housing benefit Hertfordshire Children’s Services will pay the rent/accommodation element (or the housing benefit portion) of the “Staying Put” arrangement (subject to a claim having been rejected). The claim for housing benefit should be made, based on the fact that the carer is a former foster carer/”Staying Put” carer rather than a relative. Young people who are working remain liable for rent; Hertfordshire Children’s Services will assess the young person’s contribution based on the housing benefit rules and would only pay the housing benefits contribution/element.
3. The rent level and housing benefit claim rate in 2016-2017 is £98.00 per week.

### **Liability for Rent**

All young people living in a “Staying Put” arrangement have a liability for rent of £98.00 per week which is set on a commercial basis. Young people are expected to pay the rent of £98.00 per week from their earnings or housing benefit, or a combination. The liability for rent is set out in the young person’s Licence agreement see:

- Appendix Two - Standard “Staying Put” Arrangement - Housing Benefit Claim Letter - Licence to Occupy – Licence Agreement.

Failure of the young person to pay rent and/or claim housing benefit may result in a young person being evicted from a “Staying Put” arrangement. See appendix one for non-payment of rent issues.

### **Housing Benefit for Young People - Guidance**

From the age of 18 young people can claim help from Housing Benefit towards their rent where there is a liability to pay rent on a commercial basis.

Where meals are provided within the “Staying Put” arrangement, the method used to calculate the level of Housing Benefit is the 1996 Housing Benefit maximum rent

rules relating to 'Boarder' arrangements. The amount payable will be set by the Local Rent Officer who will provide a Local Reference Rent or a Claim Related Rent. The lowest of these will be used to work out the amount of help given with their rent, less an amount for meals.

Young People are able to claim Housing Benefit when their "Staying Put" carer/s are in receipt of Housing Benefit themselves. However, where carers are in receipt of benefits themselves, the non-section 23C element of the overall allowance (the rent paid by the young person) will be counted as income from the "Staying Put" arrangement; this non-section 23C element will be treated as income from a 'Boarder'. Section 23C money is the element of the payment paid from the local authority fostering service; the non section 23C portion is all of the other elements, some of these other elements may still be paid through the local authority fostering service, for example, where housing benefit for the young person is paid directly to the local authority. See section – 'Section 23C Payments and Benefit Issues for "Staying Put" Carers'.

In circumstances where Housing Benefit is based on the maximum rent rules, it is possible to request a Pre-Tenancy Determination in advance of the Housing Benefit claim being submitted, in order to determine the level of Housing Benefit that will be paid on a given property. Pre-Tenancy Determinations are carried out by the Local Rent Officer.

Where Housing Benefit is paid under the 1996 Housing Benefit rules Children's Services "Staying Put" Schemes can request that the Housing Benefit payments are paid directly to Children's Services as agents (sometimes deemed a third party claim) of the carer/s.

As fostering regulations cease when a child reaches the age of 18 the primary framework governing these arrangements is tenure law. Young people are deemed excluded occupiers on a Licence.

The standard letter (Appendix Two) should be issued and signed by the "Staying Put" carer as evidence of the young person's liability to pay rent and is used as the Licence agreement in circumstances where a young person is expected to claim Housing Benefit. The letter sets out the full costs of the arrangement broken down into:

- Rent/Accommodation
- Support
- Utilities/Services

- Food/Meals.

The rent liability for young people living in a “Staying Put” arrangement in Hertfordshire is £98.00 per week, excluding food, utilities and support.

### **Rent Liability and Rent Payments**

The weekly rent of £98.00 is the responsibility of the young person, where possible and to avoid disruption to a “Staying Put” carer’s payment, the rent/housing benefit payment can be made to Hertfordshire County Council. The £98.00 rent then forms an element of the overall payment made to the “Staying Put” carer. Where it is not possible for housing benefit to be paid to the Council, the housing benefit should be paid to the carer and the payment from Hertfordshire County Council will be reduced accordingly. The rent element is a non-Section 23C payment; the remainder of the allowance from Hertfordshire County Council is counted as a Section 23C payment.

**NOTE:** In circumstances where young people claim Housing Benefit and the “Staying Put” carer/s are in receipt of a means tested benefit, the young person’s benefit claim will result in the “Staying Put” carers benefit being reduced. This reduction will be offset by the local authority (Hertfordshire) paying an amount equivalent to the level of the benefit reduction as section 23C compensatory payment.

See Section on - Section 23C Payments and Benefit Issues for “Staying Put” Carers.

## **Payment Rates to Hertfordshire “Staying Put” Carers**

### **“Staying Put” Supported**

Hertfordshire Children’s Services is committed to ensuring foster carers do not experience a reduction in their income by supporting a former foster child under a “Staying Put” Supported arrangement. Whilst the “Staying Put” carer will receive the same level of income as they did when the child was a foster child, some of the income under the “Staying Put” arrangement will come from the young person in the form of a payment for their rent, which may come via Housing Benefit from one of the Hertfordshire Housing Benefit Department. In addition, “Staying Put” carers will have their Fostering Maintenance Allowance reduced by £48.54, but will no longer be expected to provide this level of financial support to the young person. From the age of 18 (16 in certain circumstances) young people are eligible to claim a welfare benefit of £57.90 which will replace the £48.54 previously provided by their carer. In



circumstances where a young person is in receipt of earnings, their earnings can be used to replace the allowances that are no longer provided by their carer.

## **“Staying Put” Supported Allowances – Education/Training, Vulnerability, Planned Move-On and Disability**

1. The “Staying Put” former fostering arrangement – Hertfordshire Carers rate (applied from the young person’s 18<sup>th</sup> birthday) is:

- a. Family and Friends/Connected People - £203.00 per week - fostering maintenance allowance - minus £48.54 = 16 & 17 year old pocket money (£12.70), clothing allowance (£20.84) and a mobile phone/personal element (£15.00) - Paid £154.46.

Plus a £20.00 per week support allowance.

- **Total paid per young person aged 18 and above - £174.46.**

- b. Level 1 - £203.00 per week - fostering maintenance allowance - minus £48.54 = 16 & 17 year old pocket money (£12.70), clothing allowance (£20.84) and a mobile phone/personal element (£15.00) - Paid £154.46.

Plus Level 1 Skills Payment – Per Young Person -£189.39 – **Total Paid £343.85.**

- **Total paid per young person aged 18 and above - £343.85.**

- c. Level 2 - £203.00 per week - fostering maintenance allowance - minus £48.54 = 16 & 17 year old pocket money (£12.70), clothing allowance (£20.84) and a mobile phone/personal element (£15.00) - Paid £154.46.

Plus the Level 2- Skills Payment - Per Young Person - £225.28 - **Total Paid £379.74.**

- **Total paid per young person aged 18 and above - £379.74.**

- d. Level 3 - £203.00 per week - fostering maintenance allowance - minus £48.54 = 16 & 17 year old pocket money (£12.70), clothing allowance (£20.84) and a mobile phone/personal element (£15.00) - Paid £154.46.

Plus the Level 3 – 1<sup>st</sup> Placement - Skills Payment - Per Child/Young Person - £415.52 – **First Placement - Total Paid - £569.98.**

Plus the Level 3 – 2<sup>nd</sup> Placement - Skills Payment - Per Child/Young Person - £265.66 – **Second Placement - Total Paid - £420.12.**

2. The Level 3 - 1<sup>st</sup> and 2<sup>nd</sup> Placement - Skills Payment is applied according to the order in which the child was placed, rather than the age of the child and includes children and young people under and over the age of 18.

## **“Staying Put” Lodgings Allowances**

Where a young person remains with their former foster carers under a “Staying Put” Lodgings arrangement, either from their 18<sup>th</sup> birthday or when the “Staying Put” Supported arrangement ceases, the following will be applied to the “Staying Put” carers and young person.

- a. Family and Friends/Connected People - £203.00 per week - fostering maintenance allowance - minus £48.54 = 16 & 17 year old pocket money (£12.70), clothing allowance (£20.84) and a mobile phone/personal element (£15.00) - Paid £154.46. Plus a £20.00 per week support allowance.

- **Total paid per young person aged 18 and above - £174.46.**

Where a young person remains within a “Staying Put” Lodgings arrangement to attend university, the Virtual School will contribute £4000.00 per year to the cost of the “Staying Put” Lodgings arrangement. The £4000.00 is transferred from the Virtual School to the Fostering Budget. “Staying Put” Lodgings carers receive £174.46 per week.

### **Staying Put – University**

The following information provides guidance regarding young people who have left a Staying Put arrangement and wish to return to the Staying Put home in the summer vacation.

The arrangements for a young person to return to their previous Staying Put home should be organised, agreed and set out in the pathway plan prior to commencing a university course.

### **Staying Put Vacation Arrangement – Spare Room**

1. Where a Staying Put carer has a spare room that the young person can use during the summer vacation the following principles apply. A current DBS check and risk assessment is required in terms of the impact of the returning young person (adult in foster care household) on any foster children in the household,

particularly children/young people who have been placed since the young person left to attend university.

2. The rate paid would be the Staying Put Lodgings rate of £174.46 (2016-2017) per week, of which the young person is liable and responsible for the rent element of £98.00 per week (paid by the Virtual School to the fostering budget). The £174.46 (2016-2017) per week allowance covers all costs associated with the provision of the Staying Put arrangement.

### **Staying Put Vacation Arrangement – No Spare Room**

1. Where a Staying Put carer does not have a spare room that the young person can use during the summer vacation the following principles apply. A current DBS check and risk assessment is required in terms of the impact of the returning young person (adult in foster care household) on any foster children in the household, particularly children/young people who have been placed since the young person left to attend university. Consideration will also need to be given on the accommodation that the young person can use, if the young person is staying in the living room, office or other room an assessment will be required regarding the suitability of this arrangement and if it will have a negative impact on the foster children in the household. The supervising social worker will need to liaise with the social worker/s of the foster children in the household regarding the assessment and risk assessment.
2. Should it be agreed that the young person can stay within the household over the vacation, a contribution to food and utilities should be made by the young person. The suggested contribution is £40.29 per week; this amount has been set to align with the rate used for all other Staying Put arrangements (100% food rate and 50% utility rate). If the young person does not have the use of their own room, a rent charge should not be applied.

### **“Staying Put” General Allowances (2016 – 2017)**

3. From the young person’s 18<sup>th</sup> birthday “Staying Put“ carer’s are no longer expected to provide pocket money (£12.70) a clothing allowance (£20.84) and a mobile phone/personal element (£15.00) – total £48.54 (from the Fostering Maintenance Allowance), young people are expected to replace this via a means tested benefits or employment (all other elements of the fostering maintenance should continue).
4. “Staying Put” carers should continue to provide the same level of support and services to the young person as they did when they were a foster child. The

support provided should be set out in the young person's pathway plan and living together agreement.

3. Disabled young people are able to claim Employment and Support Allowance from their 16<sup>th</sup> birthday therefore the pocket money (£12.70) clothing allowance (£20.84) and a mobile phone/personal element (£15.00) – total £48.54 will cease to be paid to the foster carer (from the Fostering Maintenance Allowance) when the young person's benefit claim is in payment.
4. The family and friends/connected person's rate (foster care maintenance allowance rate) and the level 1, 2 and 3 rate covers all: accommodation, support, utilities, meals/food and associated placement costs. "Staying Put" carers are expected to provide the same level of practical support and financial support when a young person reaches the age 18, the only change is that carers no longer need to provide, pocket money, a clothing allowance or a mobile phone/personal element allowance.
5. In order to create parity with other care leavers, fostering birthday and Christmas/festival allowances and access to the holiday allowances cease once a young person reaches the age 18 (the 18<sup>th</sup> birthday allowance is covered by the fostering policy).
5. "Staying Put" carers will continue to be eligible for their holiday entitlement.
6. Any additional funding or requirements relating to family contact, specific activities and health needs for individual young people and "Staying Put" arrangements should be agreed by the HARP.
7. As set out above all young people are required to claim a personal benefit, or, replace the clothing, pocket money and savings element by part time/full time employment and earnings and also claim Housing Benefit.
8. In situations where young people are working part time/full time, and do not claim a means tested personal benefit they will be expected to use their earnings to replace the pocket money, clothing allowance and mobile phone/personal element and claim housing benefit (see point 9). Earnings over £62.90 (2016-2017) will result in a reduction of housing benefit which will need to be made up by a contribution by the young person.
9. Young people living in family & friends/connected person's "Staying Put" arrangements with sisters, brothers and certain extended family members who are formally approved as foster carers may experience difficulties claim housing benefit. In exceptional situations where a young person is not eligible to claim

housing benefit Hertfordshire Children's Services will pay the rent/accommodation element (or the housing benefit portion) of the "Staying Put" arrangement (subject to a claim having been rejected). The claim for housing benefit should be made, based on the fact that the carer is a former foster carer/"Staying Put" carer rather than a relative. Young people who are working remain liable for rent; Hertfordshire Children's Services will assess the young person's contribution based on the housing benefit rules and would only pay the housing benefits contribution/element.

10. All Housing Benefit (where possible) should be paid directly to Hertfordshire County Council.

### **Section 23C Payments and Benefit Issues for "Staying Put" Carers**

This section covers the rules regarding payments to "Staying Put" carer/s that are in receipt of a means tested benefit/s. National Insurance benefits are not affected by this income.

Payments made to the "Staying Put" carers from the Local Authority Children's Services under section 23C of the Children Act 1989 via the young person, or directly to the carer/s on behalf of the young person are disregarded when calculating the carer's entitlement to means tested welfare benefits. The section 23C payment is disregarded in its entirety in circumstances where young people continue to live as a member of their former foster carer's family on a non-commercial basis. Where young people contribute to the arrangement and/or claim housing benefit (which requires a commercial arrangement) they cannot continue to be deemed to be living solely in a familial arrangement and therefore any element of the payment from a source other than the section 23C element is taken into account when calculating the impact on the "Staying Put" carers own welfare benefit claim. The section 23C element will always be disregarded when calculating the "Staying Put" carer's welfare benefit entitlement.

Where Housing Benefit is paid to the young person, or they pay the rent element from their earnings, all non-section 23C payments regardless of their source will be counted as income under the 'Boarder' rules. Under these rules the first £20.00 and 50% of the remainder is disregarded. For example, if a carer receives £174.46 per week in total for the "Staying Put" Lodgings arrangement of which £76.46 is paid by the local authority under section 23C and £98.00 is paid by the young person from housing benefit, the amount taken into account by the DWP will be £98.00. Of the £98.00, - £20.00 and a further £39.00 (50% of the £78.00) is disregarded, therefore the carer will be deemed to have a £39.00 per week income from the 'Boarder' ("Staying Put") arrangement and they will lose £39.00 of their Income Support,

income-based Jobseekers Allowance, or Income-based Employment & Support Allowance.

In circumstances where the “Staying Put” carer is in receipt of Housing Benefit along with the above-mentioned benefits, the Housing Benefit is not affected. If the “Staying Put” carer is getting Housing Benefit but NOT getting another means-tested benefit, the £39.00 will count as income, and this will lead to a £26.00 per week reduction in Housing Benefit (a 65p per week reduction for every £1.00 of extra income).

This arrangement would apply to each young person if two or more young people aged eighteen or over remain in the placement.

In these situations where the “Staying Put” carer is in receipt of a means tested benefit the young person should still pay rent/claim Housing Benefit, an amount equivalent to the carers DWP benefit reduction will be paid to them from section 23C. The section 23C compensatory payment will be disregarded in full by the DWP. In the above example a £39.00 or £26.00 compensatory section 23C payment will be made.

Where the “Staying Put” carer is over the pension credit age (the pension credit entitlement age is rising from 60 to 65 between 2010-2020) and is in receipt of Pension Credit more generous disregard rules regarding income from ‘Boarder Arrangements’ may apply and should be explored.

In situations where a “Staying put” carer is getting child tax credit or working tax credit, they should declare their ‘profit’ from providing a “Staying Put” arrangement, as calculated on page 30. That profit may well be nil.

Early planning for, and identification of, the benefits and financial circumstances of individual carers is critical to ensuring that appropriate plans and arrangements are in place for both the carers and young person. Given the complexity of making these arrangements, commencing planning these from the child’s 16th birthday should provide sufficient time to ensure the necessary arrangements and support are in place by their 18th birthday. Consultation with Hertfordshire County Council Money Advice Unit may be required.

### **Payment Adjustments/Compensation Table**

<b>All situations</b>	<b>Carer in receipt of benefit</b>
Adjustment to foster carer’s / “Staying Put” carer’s payment when young	Adjustment to foster carer’s / “Staying Put” carer’s payment when young person

<p>person claims Income Support, or Employment and Support Allowance or Jobseekers Allowance or has earnings from employment.</p> <p>Young person pays rent/claims housing benefit.</p>	<p>claims Income Support, or Employment and Support Allowance or Jobseekers Allowance or has earnings from employment.</p> <p>Young person pays rent/claims housing benefit.</p>
<p>1. Allowance reduces by £48.54 per week (pocket money and clothing allowance, mobile phone/personal element).</p> <p>Rent/Housing benefit paid to Hertfordshire County Council.</p>	<p>1. Allowance reduces by £48.54 per week (pocket money and clothing allowance, mobile phone/ personal element).</p> <p>2. A Section 23C Compensation Payment of £39.00 or £26.00 per week is made in order to compensate for the £39.00 or £26.00 of weekly benefit being lost as a result of the young person's rent/housing benefit payment.</p> <p>3. Actual reduction of £14.54 (HB) or £27.54 (IS, JSA, E&amp;SA and HB) for the pocket money, clothing allowance, mobile phone/personal element, which incorporates the section 23C Compensation Payment.</p> <p>Rent/Housing benefit paid to Hertfordshire County Council.</p>
<p>Carer no longer provides pocket money, clothing, and mobile phone/personal allowance element of £48.54 per week.</p>	<p>Carer no longer provides pocket money, clothing, and mobile phone/personal allowance element of £48.54 per week.</p>

### **Council Tax, Council Tax Support and Non-Dependent Deductions**

1. From April 2013 Council Tax Benefit has been replaced by Council Tax Support schemes that reflect individual local authority priorities and are administered through local rules.
2. The impact of the "Staying Put" arrangement on "Staying Put" carers Council Tax and Council Tax Support will depend on both the circumstances of the "Staying Put" carer and the young person. For example, full time students are

'invisible' for Council Tax purposes and will not have any impact on the "Staying Put" carers Council Tax or Council Tax Support.

3. In circumstances where a "Staying Put" carer is working and in receipt of the 25% single person Council Tax reduction, this discount may continue when a "Staying Put" young person is living in the arrangement. The continuation of the 25% discount will depend on the circumstances of the young person.
4. Where "Staying Put" young people are claiming a means tested benefit, a Non-dependent Deduction should not be applied to the "Staying Put" carers own means tested benefit claim.
5. When planning for a "Staying Put" arrangement, consideration should be given to the impact of the arrangement on the "Staying Put" carers Council Tax, Council Tax Support and whether a Non-dependent Deduction will be applied. In circumstances where an increase in Council Tax occurs; a reduction in Council Tax Support applies, or a Non-dependent Deduction is applied an application should be made to HARP for a payment from section 23C equivalent to the carers financial loss.
6. "Staying Put" young people will not incur an 'Under Occupancy' or bedroom tax charge on the "Staying Put" carers.

## **The Treatment of Benefits**

Payments from Children's Services to young people under section 17, section 20, section 23, section 24 and section 31 (Children Act 1989) do not count as income for benefit purposes. Payments made to young people and passed to former foster carer/s from section 23C (Children Act 1989) are disregarded in the assessment of the former foster carer/s' income for benefit purposes, if the young person was formerly in the claimant's care, is aged 18 or over and continues to live with the claimant within a non-commercial family type arrangement. If the arrangement is a commercial one (i.e. if the young person contributes to the arrangement by paying rent) the section 23C disregard ceases on any non-section 23C element of the payment.

## **Income Tax and National Insurance Issues for "Staying Put" Arrangements**

Where young people remain living with their former foster carer/s under a "Staying Put" arrangement, the Income Tax and National Insurance rules that apply are set out in the 'Shared Lives Carers' – 'Qualifying Care Relief' Guidance.



The 'Shared Lives Carers' – 'Qualifying Care Relief Guidance' sets out that "Staying Put" carers receive tax exemptions up to a given 'qualifying amount' for each "Staying Put" young person living with them. The "Staying Put" qualifying rate mirrors the system and amounts that applied when the placement was previously a foster care placement.

"Staying Put" carers will be covered by the Qualifying Care Relief system where they provide a "Staying Put" arrangement for a young person who was looked after immediately prior to the young person's 18th birthday. Qualifying Care Relief can continue until the young person reaches the age of 21, or, until they complete a programme of education or training being undertaken on their 21<sup>st</sup> birthday.

The Qualifying Care Relief system provides for foster carer/s and/or "Staying Put" carer/s to earn up to a given amount without paying Income Tax or Class 4 National Insurance Contributions on their caring income. The Income Tax free allowance consists of two elements. Firstly, a fixed amount per foster care or "Staying Put" household per year (for 2016 -2017 this is set at £10,000). Secondly, an additional amount per week per child (£200 per week under the age of eleven [0-10], £250 per week age eleven to their eighteenth birthday [11-17] 2016-2017) and £250 per week per adult aged eighteen to the twenty-first birthday [18-20] or until the end of the programme of education or training, as defined as "Staying Put" by HMRC (see terminology section).

The £10,000 per year applies once per household regardless of how many foster children or "Staying Put" young people are placed. The additional amount applies per child/young person per week. Where there is more than one paid "Staying Put" carer in the household, the allowance is shared equally by both carers.

The tax free allowance is only available to households with three or fewer placements. However, foster care placements are excluded for this purpose, and sibling groups are counted as one placement.

The tax free allowance only applies to the "Staying Put" carer's income from caring. If they have income from other sources, they will pay tax on that income in the normal manner.

If the "Staying Put" carer/s exceeds the allowance they will have a choice of using the 'simplified' method or the standard profit and loss method to calculate their taxable profits. The carer/s will also be liable to pay Class 4 National Insurance Contributions on their taxable profit. Under the simplified method, a carer's taxable profit is the income they receive from caring which exceeds their tax free allowance. Where foster carer/s or "Staying Put" carer/s do incur an Income Tax and Class 4 National

Insurance liability and they have not used their personal allowance this can be used to off-set this liability.

Individual carers can consult their local HMRC office for guidance on their circumstances and liabilities.

In practice HMRC will treat the taxable profit from foster care or “Staying Put” care as earnings from self-employment for National Insurance Contributions purposes.

“Staying Put” carer/s as well as foster carer/s should note that they may be able to claim Working Tax Credits which are administered by HMRC. Fostering/”Staying Put” care is counted as work for Working Tax Credit purposes. The carer’s taxable income is included in the total household income that is used to assess the amount of tax credits that they are entitled to. So, where the carer is paid less than their tax free allowance, their income from caring for tax credits purposes is also nil.

HMRC is aware that a number of foster carers and ”Staying Put” carers may not have registered for Class 2 National Insurance Contributions because they make little or no taxable profit. Foster care and “Staying Put” care is deemed as self-employment and as such carer/s should register as self-employed. All self-employed people aged 16 and over who are below State Pension age are liable and must register to pay Class 2 National Insurance Contributions. Failure to do this may affect their entitlement to Employment and Support Allowance, Maternity Benefit, State Pension and Bereavement Benefit. However, self-employed carers may be able to apply for Carers Credits which have replaced Home Responsibilities Protection and those with no or low taxable profits may be able to apply for a Small Earnings Exemption.

To claim a carers credit, foster carers/”Staying Put” carers must complete form CF411A available from HMRC ([www.hmrc.gov.uk](http://www.hmrc.gov.uk)).

If carers have not previously registered as self employed they can obtain further information by calling the Newly Self-employed Helpline on **0300 200 3504**.

If they are currently registered to pay Class 2 National Insurance Contributions they can obtain further information by calling the Self-employed Helpline on **0845 915 4655** instead.

HMRC Helpsheet (hs) 236 sets out information about the ‘Shared Lives Carers’ – ‘Qualifying Care Relief Guidance’ - Fostering and “Staying Put” Income Tax and National Insurance framework. <http://www.hmrc.gov.uk/helpsheet/hs236.pdf>

Foster carers and “Staying Put” carers should always inform the DWP and HMRC if their circumstances change and should always check with the DWP and HMRC regarding their personal circumstances and how payments for foster care or “Staying

Put” care may affect their means tested benefits or any Income Tax or National Insurance liability.

## **Conclusion and Universal Credit**

The information in this guidance sheet is correct as of May 2016 and will apply to “Staying Put” arrangements during 2016-2017. The introduction of the Universal Credit system will create changes to the benefit and tax credit system for foster carers, “Staying Put” carers and young people in, and leaving care. The introduction of Universal Credit is being tested through a number of Pathfinder areas and will, in time, be phased on a national basis. During the phased transfer period there will be four possible “Staying Put” arrangements, all of which will have different impacts on the “Staying Put” carer and young person’s claim:

1. “Staying Put” carer on old benefit system, young person on old benefit system;
2. “Staying Put” carer on old benefit system, young person on Universal Credit (UC) system;
3. “Staying Put” carer on UC system, young person on old benefit system;
4. “Staying Put” carer on UC system, young person on UC system.

Foster carers and “Staying Put” carers must ensure that they inform the Department for Work and Pensions and HM Customs and Revenue of any change of circumstance in their family, with their foster children, or with their “Staying Put” young people.

## **APPENDIX ONE**

### **Staying Put - Move-On Arrangements – Planned and Un-Planned Endings and Evictions**

All young people reaching the age of 18 should have a pathway plan that sets out the arrangements for them moving to semi-independent or independent living. Young people reaching the age of 18 and commencing a “Staying Put” arrangement should also have a pathway plan that sets out the provisional arrangements for a move-on from “Staying Put”. The majority of young people will leave “Staying Put” in a planned manner and move to a Hertfordshire housing authority tenancy in the same way that other care leavers do. Individual arrangements should be set out the young person’s pathway plan.

#### **Planned Move-On**

Where young people decide that they would like to leave the “Staying Put” arrangement, or the “Staying Put” carers decide that they would like the arrangement to come to an end, each party should give at least 28 days notice. The young person’s leaving care personal adviser and the Brokerage placements officer will arrange for the young person to access suitable accommodation via their ‘local connection’ housing authority, partner housing association or a registered social landlord.

#### **Disruptions**

Where a young person displays unacceptable behaviour or participates in activities that are deemed inappropriate, a disruption meeting will take place in line with the fostering disruption policy/pathway plan review policy. Any new or changed requirements or house rules will be set out in an up-dated Living Together Agreement.

#### **Emergency and Unplanned Move-On and Evictions**

Where a young person displays extreme behaviour, commits an offence against a person within the household they may be required to leave the “Staying Put” arrangement on the same day or within a short period of time. Wherever possible, a disruption/pathway plan review meeting will take place and will set out where the young person will move to.

The circumstances leading to the young person being required to leave may result in the young person being deemed intentionally homeless. Additionally, leaving the “Staying Put” arrangement in an emergency and in an un-planned manner may limit

the young person's accommodation choices, and in the short term they may need to live in a range of temporary accommodation.

### **Non-Payment of Rent**

In situations where young people do not pay their rent, either by not making the required payment or by not claiming housing benefit they may be subject to an eviction process. In all situations where a young person owes four weeks rent (£392.00) a disruption/pathway planning meeting will be called. The disruption/pathway planning meeting will decide on the action required by the young person to address the rent arrears. Young people will be given every opportunity to repay any arrears and eviction will only take place as a last resort in situations of rent arrears.

### **Tenancy Status – Excluded Licence**

The tenancy status of young people living in “Staying Put” arrangements is that of an ‘Excluded Licensee’. Being on a ‘Licence’ and living in a household with the ‘landlord’ means that the licensee has very few tenancy rights and can be asked to leave the property with ‘reasonable notice’. Reasonable notice could be construed as having to leave immediately, where a person has acted in an extremely inappropriate manner, for example, violence towards members of the household, property damage, abusive/racist behaviour, theft from the property.

**APPENDIX TWO**

**Standard “Staying Put” Arrangement - Housing Benefit Claim Letter**

**Licence to Occupy – Licence Agreement**

**“Staying Put” Carers Address**

HOUSING BENEFIT  
DEPARTMENT  
ADDRESS

Young Person (Licensee):

D.O.B:

N.I. NUMBER:

CURRENT ADDRESS:

TYPE OF ACCOMMODATION AND TENANCY:

Previous Foster Care Placement (“Staying Put” Arrangement) – Excluded Licence  
The Staying Put carer is deemed the landlord

Name of Landlord

Foster Carer/Staying Put Carer

Agent for the Landlord

Hertfordshire Children’s Services

Dear Sir/Madam,

This letter is provided to confirm that (**Add Full Name**) was previously a foster care child placed in my household. (**Add Full Name**) has now reached the age of eighteen and will be remaining as an ‘independent adult’ in my house **to complete his/her education or due to his or her vulnerability** under a “Staying Put” arrangement. (**Add Full Name**) is liable for rent costs of £98.00 per week excluding meals and utility charges. Hertfordshire County Council will continue to provide an allowance to the carer to meet the additional and support costs of (**Add Full Name**). As (**Add Full Name**) is provided with meals and is a care leaver I understand (**he/she**) is eligible to claim Housing Benefit under the 1996 Housing Benefit maximum rent rules relating to ‘Boarder’ arrangements.

As (**Add Full Name**) was previously ‘Looked After’ and remains vulnerable I would request that the Housing Benefit is paid directly to Hertfordshire County Council as an agent of the “Staying Put” carer/s. Hertfordshire County Council will continue to pay the carer/s the combined accommodation and support cost to avoid any disruption to the carer/s payments. See over for payment details.

The payment from Hertfordshire County Council will contain a) the young person’s rent/housing benefit payment and b) the remainder, being a Section 23C payment.

If you require any further information please do not hesitate to contact me.

Yours faithfully

**SIGNED BY FOSTER CARER/”STAYING PUT” CARER**

**ADD THE APPROPRIATE TABLE CONTAINED WITHIN APPENDIX THREE TO THE LETTER**

Fostering Budget - Housing Benefit Income - Finance Contact –  
2016/2017

**Patricia Gibbons**

Brokerage Support Manager  
Brokerage Service  
1<sup>st</sup> Floor Robertson House (SROB 115)  
Six Hills Way  
Stevenage  
SG1 2ST  
Comnet: 56948  
Tel: 01992 556948  
[patricia.gibbons@hertfordshire.gov.uk](mailto:patricia.gibbons@hertfordshire.gov.uk)

Please make payments via BACS  
Hertfordshire County Council  
Bank Account for BACS  
Sort Code           20 17 19  
Account Code       13774597

If using BACS request a reference number and send remittance advice to:  
[patricia.gibbons@hertfordshire.gov.uk](mailto:patricia.gibbons@hertfordshire.gov.uk)

Alternatively (Where BACS is not available) Please pay cheques to  
Hertfordshire County Council and send to Patricia Gibbons at the above address

**APPENDIX THREE**

**“Staying Put” Supported Arrangements - Cost Breakdown  
2016/2017**

Family and Friends/Connected Person - Fostering Maintenance Allowance = £203.00  
minus - pocket money (£12.70), clothing allowance (£20.84) and a mobile phone/  
personal element (£15.00), = £154.46 plus a £20.00 per week support allowance  
**= Total Paid £174.46**

Level 1 Foster Care Fee = £189.39 plus £154.46 = **Total Paid £343.85**

Level 2 Foster Care Fee = £225.28 plus £154.46 = **Total Paid £379.74**

Level 3a) Foster Care Fee = £415.52 (1<sup>st</sup> placement) plus £154.46 =  
**Total Paid £569.98**

Level 3b) Foster Care Fee = £265.66 (2<sup>nd</sup> placement) plus £154.46 =  
**Total Paid £420.12**

**Family and Friends/Connected Person – Fostering Maintenance Allowance**

<b>SERVICES</b>	<b>WEEKLY PAYMENTS</b>
NET RENT – ACCOMMODATION ONLY	£98.00
SUIPPORT	£25.89
UTILITIES	£20.57
FOOD	£30.00
<b>TOTAL</b>	<b><u>£174.46</u></b>

**Level 1**

<b>SERVICES</b>	<b>WEEKLY PAYMENTS</b>
NET RENT – ACCOMMODATION ONLY	£98.00
SUPPORT	£195.28
UTILITIES	£20.57
FOOD	£30.00
<b>TOTAL</b>	<b><u>£343.85</u></b>

**Level 2**

<b>SERVICES</b>	<b>WEEKLY PAYMENTS</b>
NET RENT – ACCOMMODATION ONLY	£98.00
SUPPORT	£231.17
UTILITIES	£20.57
FOOD	£30.00
<b>TOTAL</b>	<b><u>£379.74</u></b>



**Level 3 – first placement**

<b><u>SERVICES</u></b>	<b><u>WEEKLY PAYMENTS</u></b>
NET RENT – ACCOMMODATION ONLY	£98.00
SUPPORT	£421.41
UTILITIES	£20.57
FOOD	£30.00
<b>TOTAL</b>	<b><u>£569.98</u></b>

**Level 3 second placement**

<b><u>SERVICES</u></b>	<b><u>WEEKLY PAYMENTS</u></b>
NET RENT – ACCOMMODATION ONLY	£98.00
SUPPORT	£271.55
UTILITIES	£20.57
FOOD	£30.00
<b>TOTAL</b>	<b><u>£420.12</u></b>

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**“Staying Put” Lodgings Arrangements - Cost Breakdown 2016/2017**

**Fostering Maintenance Allowance**

<b><u>SERVICES</u></b>	<b><u>WEEKLY PAYMENTS</u></b>
NET RENT – ACCOMMODATION ONLY	£98.00
SUPPORT	£25.89
UTILITIES	£20.57
FOOD	£30.00
<b>TOTAL</b>	<b><u>£174.46</u></b>

**“Staying Put” Family & Friends Arrangements - Cost Breakdown 2016/2017**

**Fostering Maintenance Allowance**

<b><u>SERVICES</u></b>	<b><u>WEEKLY PAYMENTS</u></b>
NET RENT – ACCOMMODATION ONLY	£98.00
SUPPORT	£25.89
UTILITIES	£20.57
FOOD	£30.00
<b>TOTAL</b>	<b><u>£174.46</u></b>

## **APPENDIX FOUR**

### **Apprenticeships – Employment or Training**

#### **Apprenticeships**

The majority of apprenticeships are classed as employment with a study component.

These types of apprenticeships are generally secured by young people gaining employment with a company or organisation that is a registered apprenticeship provider. The young person is employed and also undertakes a study component towards a:

- National Vocational Qualification (NVQ)
- Technical Certificate
- Functional Skills (Mathematics, English)
- Personal Learning and Thinking Skills (PLTS)
- ERR (Employment Rights and Responsibilities) Workbook

From the 1<sup>st</sup> October 2015, the minimum wage rate is £3.30 per hour for apprentices aged 16 to 18 and those aged 19 or over who are in their first year. All other apprentices are entitled to the National Minimum Wage for their age and can be found on [www.gov.uk/national-minimum-wage-rates](http://www.gov.uk/national-minimum-wage-rates)

As the apprenticeship is deemed employment, young people may be eligible for a range of benefits, including housing benefit depending on their circumstances and level of income. If the apprenticeship is deemed employment, the young person would be covered by the “Staying Put” Lodgings framework.

#### **Traineeships and Programme Led Apprenticeships**

These types of traineeships and apprenticeships are provided by a training provider or college, with work experience provided at the establishment site, and are therefore is deemed education/training rather than employment. Young people may be eligible for a range of benefits, including housing benefit depending on their circumstances and level of income. If the apprenticeship is deemed programme led, the young person would be covered by the “Staying Put” Supported framework (for up to two years following their 18<sup>th</sup> birthday).

## APPENDIX FIVE

### Rent Liability & Housing Benefit Contributions Table

The table below sets out the level of contribution that the young person will need to make towards their rent and the amount of housing benefit they will receive for a given level of income/earnings.

Rent Liability and Earnings/Income – Housing Benefit Contributions Table - Staying Put			
Young Person has a Rent Liability = £98.00 per week - 2016 – 2017			
Earnings/ Income £ per week	Disregard £ per week (Single person £57.90 element plus £5.00)	Housing Benefit contribution - £ per week paid to Hertfordshire County Council	Rent contribution - £ per week paid to Hertfordshire County Council
62.90	62.90	98.00	0
72.90	62.90	91.50	6.50
82.90	62.90	85.00	13.00
92.90	62.90	78.50	19.50
102.90	62.90	72.00	26.00
112.90	62.90	65.50	32.50
122.90	62.90	59.00	39.00
132.90	62.90	52.50	45.50
142.90	62.90	46.00	52.00
152.90	62.90	39.50	58.50
162.90	62.90	33.00	65.00
172.90	62.90	26.50	71.50
182.90	62.90	20.00	78.00
192.90	62.90	13.50	84.50
202.90	62.90	7.00	91.00
212.90	62.90	0.50	97.50