

These notes refer to the Children (Leaving Care) Act (Northern Ireland) 2002 (c.11) which received Royal Assent on 22 November 2002

Children (Leaving Care) Act (Northern Ireland) 2002

EXPLANATORY NOTES

OUTLINE OF THE EXISTING LAW

16. The Children Order provides the legal basis for the provision of leaving and after care services. All references to numbered Articles in paragraphs 17 to 21 below, are to the Children Order *before* amendment by the Children (Leaving Care) Act (Northern Ireland) 2002.
17. HSS Trusts have a duty to prepare young people they are looking after for the time when they will leave care. They are also given duties and powers to advise and assist young people over the age of 16 who were previously “looked after” by social services. A “looked after” child is a child who is provided with accommodation by an HSS Trust under voluntary arrangements, or who is in its care under a care order (Article 25(1)). For this purpose, a child means a person under the age of 18 (Article 2(2)).
18. The Children Order and, consequently, the Act, use the term “authority” to refer to a Health and Social Services Board or Trust. The powers and duties under the Children Order are exercised by a Board, except where a function is exercisable by a Trust by virtue of an authorisation for the time being in operation under Article 3(1) of the Health and Personal Social Services (Northern Ireland) Order 1994 (Article 2(2) and (3)). In practice, most powers and duties under the Children Order have been delegated to HSS Trusts.
19. [Article 35](#) requires HSS Trusts to advise, assist and befriend young people they are looking after, with a view to promoting their welfare when they cease to be looked after. In other words, steps should be taken to prepare the young person for the time when he or she is no longer looked after. Similar duties are also placed on voluntary organisations and anyone operating private children's homes (Articles 76 and 92).
20. Alongside the duty to prepare young people for independence, HSS Trusts have after care duties towards formerly looked after young people and other “qualifying persons” aged 16 and over. HSS Trusts may (or in some cases must) advise and befriend these young people (Article 35(4)). If a Trust has a duty or power to advise and befriend a young person, it may also provide assistance (Article 35(6)). This assistance may be in kind, or in exceptional circumstances,

in cash (Article 36(1)). Assistance may be given unconditionally or may be repayable in whole or in part (Articles 18(7) to (9) and 36(4)). Before giving assistance or imposing conditions, the Trust must have regard to the means of the young person and each of his or her parents (Article 18(8)). A person is not required to repay while he or she is in receipt of certain social security benefits (Article 18(9)).

21. An HSS Trust may also give assistance to any young person under 21 who was looked after by a Trust after reaching the age of 16, by contributing to the expenses incurred by the young person in living near the place where he or she is, or will be, employed, or seeking employment or receiving education or training. A Trust may also make a grant to enable the young person meet expenses connected with his or her education or training (Article 36(2)). The grant or contribution may continue beyond the young person's 21st birthday until he or she completes the course of education or training (Article 36(3)(a)). If the young person goes to live (or proposes to live) in the area of another Trust, the first Trust must inform the second. This is with a view to the latter taking over the after care duties for the young person (Article 37(3)).