
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st April 2004, deal with the provision of aftercare under section 29 of the Children (Scotland) Act 1995 (“the 1995 Act”) for young people who have been looked after by local authorities, but are no longer looked after by them. They also provide for throughcare preparation for young people leaving care, under section 17 of that Act.

The Regulations fall broadly into 3 parts. Firstly, they make provision for assessment of the young person’s needs and in particular the preparation of an assessment of need (“pathway assessment”) and a plan setting out details of the assistance to be provided to the young person (“pathway plan”). They then deal with the manner, form and circumstances in which assistance can be provided and, finally, they set out a procedure for local authorities to consider representations made to them about the discharge of their functions under section 29 of the 1995 Act.

Regulation 3 provides that, in carrying out the pathway assessment, local authorities are required to involve the young person in that process, taking account of their views on a range of matters which are set out within Schedule 1, and providing them with copies of the documentation relating to the whole assessment process.

Regulation 4 provides for the appointment of a person to co-ordinate the assessment process and to act on the local authority’s behalf in that regard (“pathway co-ordinator”), and sets out the functions which that individual is to carry out in relation to persons being assisted by a local authority under section 29(1) or (2) of the 1995 Act.

Regulation 5 provides for the appointment by the local authority of an individual to support the young person (“young person’s supporter”), if so requested by the young person. Paragraphs (4) and (5) set out the range of functions which the young person’s supporter may require to carry out.

Regulation 6 sets out the action to be taken by a local authority in carrying out its duties under section 17(1)(a) of the 1995 Act in relation to preparing a person who is currently looked after by the authority for when they are no longer looked after.

Regulation 7 deals with miscellaneous matters concerning the pathway assessment to be carried out in relation to the young person, and provides that the local authority shall conclude a written agreement with the young person setting out the timetable for the pathway assessment, and the persons to be involved in that process.

Regulation 8 sets out the issues to be taken into account by a local authority in completing the pathway assessment, which include the issues listed in Schedule 2, and lists the range of persons whose views they may seek in that connection.

Regulation 9 details the timescales within which the pathway assessment requires to be carried out.

Regulation 10 deals with the completion of the pathway plan, to be prepared once the pathway assessment has been carried out. The plan is to include the matters referred to in Schedule 2 and, in completing it, the local authority can seek the views of the persons detailed in paragraph (6).

Regulation 11 details the timescales within which the pathway plan requires to be completed.

Regulation 12 deals with the review of pathway plans, setting out the circumstances in which a review requires to be carried out and the matters to be taken into account in that connection.

Regulation 13 sets out the manner and circumstances in which financial assistance is now to be provided by local authorities, to take account of the terms of UK Regulations which are made under section 6 of the Children (Leaving Care) Act 2000.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 14 deals with local authorities' responsibilities in relation to the provision of assistance by way of accommodation.

Regulation 15 sets out the periods for which records are to be retained, the manner of their retention, and the circumstances in which those records may be disclosed to others.

Regulations 16 to 20 set out a procedure for representations or appeals under these Regulations.

In terms of Regulation 16(1), representations relating to decisions concerning the provision of advice, guidance and assistance under section 29(1) or (2) of the 1995 Act are to be dealt with under paragraphs (3) and (4), and regulations 17 to 20. Other complaints, representations or appeals not falling within paragraph (1) are to be dealt with in accordance with procedures established under section 5B of the Social Work (Scotland) Act 1968. Paragraph (3) provides for the appointment of an officer of the local authority ("nominated officer") to assist the authority in co-ordinating their consideration of any appeal under paragraph (1).

Regulation 17 deals with procedural issues and provides for the preparation of a written record of the appeal.

Regulation 18 provides for an informal resolution process, in the first instance. Local authorities shall endeavour to resolve appeals, by informal means, within a period of 5 working days, which period may be extended by mutual agreement.

Regulation 19 sets out the process for formally resolving appeals where the procedure under regulation 18 has not succeeded. It provides for the appeal to be considered at a meeting, where oral and written submissions can be made, and details the persons who may attend that meeting. The appeal is to be heard by an officer of a local authority not involved in the decision appealed against, together with an 'independent person' (defined within regulation 2), to be appointed by the local authority to assist it in considering the appeal. The decision on the appeal is however to be made by the officer of the local authority, alone. The procedure under regulation 19 requires to be completed within 10 working days of notification having been made to the nominated officer to the effect that the appeal has not been resolved under the informal process set out in regulation 18.

Regulation 20 provides that written notice of the appeal decision requires to be issued within 2 working days of the procedure under Regulation 19 being completed. No further appeal lies under these Regulations but so far as not exhausted by that process representations can be made in terms of the procedure established under section 5B of the 1968 Act.