

*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

COMMENTARY ON SECTIONS

Section 1 – Further duties of authorities towards children whom they are looking after

Section 1 inserts new Article 34A into the Children Order to impose further duties on authorities towards children whom they are looking after. In particular, it places a duty on an authority to prepare young people it is looking after for the time when they cease to be so looked after and leave care.

Article 34A – Preparation for ceasing to be looked after

Paragraph (1) requires an authority looking after a child to advise, assist and befriend that child with a view to promoting his or her welfare when he or she ceases to be looked after. This restates the duty previously found in Article 35(1) of the Children Order *before* amendment by the Act.

Paragraph (2) places additional duties on an authority in relation to any child it is looking after who is also an eligible child. The additional duties are set out in the remainder of this Article.

Paragraph (3) defines an “eligible child” as one who has been looked after for a prescribed period after a prescribed age, and is aged 16 or 17. The prescribed period need not be continuous but could be aggregated from more than one episode of care. In order to avoid including young people who may have been looked after as infants and happen to return briefly to care after they are 16, regulations will specify the age above which episodes of care count towards the qualifying period.

Paragraph (4) gives the Department the power to make regulations to include or exclude particular groups from the definition of eligible child. For example, there are groups of young people for whom this package of care would not be appropriate. Some young people normally live at home with their families and are only looked after for short periods of respite care in order to give their carers a rest. These periods of respite care could amount to the prescribed period and thereby meet the eligibility criteria but the Department is of the view that these young people are the responsibility of their families and should not become

subject to the new leaving care arrangements. Similarly, care leavers who successfully return to their families should become their families' responsibility and should not be brought within the new arrangements. The provisions of Articles 35, 35A and 35B (see section 4) will, however, continue to apply to such young people.

Paragraph (5) requires an authority to carry out an assessment of the needs of each eligible child with a view to determining what advice, assistance and support it would be appropriate to provide while the young person is in care and after he or she has left care. It also requires the authority to prepare a pathway plan for each eligible child. Pathway plans are defined in the new Article 34F (see section 3).

Paragraph (6) requires pathway plans to be reviewed regularly. It is envisaged that this will mean at least every six months or more often if the young person or the personal adviser asks for one. These reviews will provide the opportunity to update and revise the pathway plan in order that it may develop in line with the young person's changing ambitions and circumstances. The review will make sure that the levels of support, both financial and other, are adequate and are being delivered according to the pathway plan.

Paragraph (7) provides that pathway plans may be reviewed at the same time as other statutory reviews under the provisions of the Children Order. This will allow for a streamlining of any reviews which fall due for a given child, so that they can all be carried out together.

Paragraph (8) enables the Department to make regulations about needs assessments for eligible children.

Paragraph (9) specifies the matters which may be included in regulations made under paragraph (8). The regulations may make provision about who is to be consulted about an assessment, the way in which an assessment is to be carried out, who will perform the assessment and when, how the outcome of the assessment is to be recorded and the type of considerations an authority is to have regard to in carrying out an assessment.

Paragraph (10) requires an authority to arrange for each eligible child to have a personal adviser.