These notes refer to the Children (Leaving Care) Act 2000 (c.35) which received Royal Assent on 30 November 2000

CHILDREN (LEAVING CARE) ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 2: relevant and former relevant children

25. Section 2 amends section 22 and inserts new sections 23A to 23C. These sections impose new duties on local authorities towards children and young people formerly looked after by them.

26. Subsection (2) amends section 22 of the Children Act to allow local authorities to provide accommodation for a child who has left care, without the fact of their doing so classifying him as still being "looked after".

Section 23A

27. This section and section 23B provide for those aged 16 and 17 who leave care. Section 23A defines *relevant child* and *the responsible authority*.

28. By subsection (2) a relevant child is defined as a child of 16 or 17 who would have been an eligible child had they stayed in care but who leaves. Subsection (3) makes parallel provision to that made in paragraph 19B(3) for eligible children.

29. Subsection (4) defines *the responsible authority* as the one which last looked after the child. This is to ensure continuity of care and to avoid the difficulties which have arisen in cases where local authorities have been reluctant to provide after care support to care leavers in their area who were formerly looked after by another authority.

30. Subsection (5) allows for regulations to make English or Welsh authorities responsible for children who had been looked after by a Scottish local authority, if they come to England or Wales. If regulations are made under subsection 3(a) to make such children a new category of relevant children, this power is needed to ensure that they have a "responsible authority" under this Act. These regulations are therefore intended to ensure that English and Welsh authorities are able to take responsibility for Scottish children under these circumstances.

31. Until such time (if any) when Scottish legislation is enacted, English children who move to live in Scotland will continue as now to be able to claim social security benefits in Scotland. Scots children who move to England will not become eligible or relevant children but will be able to claim benefits as now.

Section 23B

32. Section 23B sets out the duties of the responsible local authority towards relevant children.

33. Subsection 23B(1) places a duty on a local authority to keep in touch with relevant children, wherever they choose to live.

34. Subsection (2) requires the local authority to appoint a personal adviser for each relevant child, should they not already have done so.

35. By subsection (5) regulations may be made about the needs assessment which will inform the pathway plan required by subsection (3). Subsection (6) sets out some of the specific matters which may be prescribed in regulations. The assessment will be carried out in the context of subsection (8) which sets out the local authority's duty to safeguard and promote the child's welfare.

36. Subsection (8) establishes the local authority's duty to meet the needs of a relevant child. The local authority must provide the child with maintenance and suitable accommodation. Other forms of support which may be appropriate may be prescribed in regulations. This Act aims to ensure that children leaving care can expect to receive the same sort of support from their responsible authority as a child might expect from his parents. This might be moral support or practical support.

37. Subsection (9) makes it clear that support for relevant children may be given in cash as well as in kind. Where appropriate such cash support may be given regularly; the circumstances need not be exceptional.

38. Subsection (10) allows regulations to be made about the meaning of suitable accommodation. The regulations will also provide for checks to be carried out on potential landlords or other providers of accommodation in the light of the vulnerability of these young people.

39. Subsection (11) places a duty on a local authority to take reasonable steps to trace a relevant child if they have lost touch with him. This duty applies until the child reaches his 18th birthday and so ceases to be a relevant child.

40. By subsection (12) section 17(7) to (9) of the Children Act is applied to assistance which may be given under this section. Sections 17(7) to (9) require the local authority to take account of the means of the child and his parents, and permit the local authority, depending on their means, to require some or all of this assistance to be repaid.

41. Subsection (13) provides that subsections (4) and (5) of section 22 of the Children Act apply to decisions taken under section 23B. This means that the local authority must, so far as is reasonably practicable, ascertain and give due consideration to the wishes and feelings of the child, his parents and other people deemed to be relevant in his case, and must give due consideration to the child's religious persuasion, racial origin and cultural and linguistic background.

Section 23C

42. Section 23C sets out the duties of the responsible authority towards a former relevant child.

43. Subsection (1) defines a former relevant child as one who qualified for the new arrangements for support under this Act either as an eligible or as a relevant child. Subsection (2) provides that that the responsible authority must continue to keep in touch with a former relevant child. Subsection (3) requires the responsible authority to provide him with his personal adviser and his pathway plan

44. Subsection (4) imposes a duty on the responsible authority to assist a former relevant child (a) with the expenses associated with employment; (b) with the expenses associated with education and training; and (c) to provide him with general assistance. Subsection (5) provides that the assistance provided under subsection 23C(4)(c) can be given in kind or, exceptionally, in cash. In each case the duty is to provide assistance to the extent that the young person's welfare (or, where relevant, his educational or training needs) requires it.

45. Subsection (6) provides that these duties normally apply until the former relevant child's 21st birthday. However, subsection (7) provides that if a former relevant child is being assisted with education or training pursuant to his pathway plan, the duty to assist him with it lasts to the end of the agreed programme of education or training, even if it runs beyond the young person's 21st birthday. The duties to keep in touch and to provide a personal adviser and to review the pathway plan also extend to the end of the programme.

46. Subsection (8) requires the responsible authority to disregard any interruption in the young person's attendance on a course provided that he resumes it as soon as is reasonable. Subsection (9) requires the responsible authority to provide vacation accommodation, or funds to secure it, for a former relevant child whom they are assisting with full-time higher education under subsection (4)(b), should this be necessary.

47. Subsection (10) has the same effect as section 23B(12).