



## **RESPONSE TO CONSULTATION ON 'A NEW FUTURE FOR SOCIAL SECURITY'**

**October 2016**

CELCLIS (Centre for excellence for looked after children in Scotland), based at the University of Strathclyde in Glasgow, is committed to making positive and lasting improvements in the wellbeing of Scotland's children living in and on the edges of care. Taking a multi-agency, collaborative approach towards making lasting change, CELCLIS works alongside leaders, managers and practitioners to break down barriers and forge new paths in order to change thinking and ways of working with everyone whose work touches the lives of vulnerable children and families. We welcome this opportunity to contribute to the consultation on a new future for social security in Scotland, to determine how best to use the new social security powers which are being devolved by the Scotland Act 2016. This contribution specifically focuses on the areas of the consultation which may impact on children and young people who are looked after, and who are care leavers, across Scotland.

There are approximately 15,500 looked after children in Scotland<sup>1</sup>. Looked after children are not a homogenous group; they are individuals with their own views, needs, strengths and vulnerabilities. They also live in a variety of circumstances; approximately 10% of looked after children live in residential homes or schools, 35% live with foster carers, 27% live in a kinship care setting, and 25% live at home with one or both of their birth parents. Children and young people who are looked after have experienced difficulties in their lives. A significant number of looked after children will have experienced a range of adversity, including suffering neglect, abuse, trauma and loss. The backgrounds of many children who are looked after feature experience of socio-economic disadvantage, and reduced opportunities in many areas of their lives<sup>2</sup>. The importance of having a social security system which works for these children and young people and their

families and/or carers must be a priority. Scottish Government's [Child Poverty Strategy for Scotland](#) recognises the need to target support for those for whom the benefits are greatest, in order to improve longer term outcomes for children. Looked after children and care leavers face many barriers in their lives, and as a group, their outcomes are poor across a range of indicators, including educational attainment, positive post-school destinations and mental health<sup>3 4</sup>. Due to the level of need and vulnerability of this group of young people, and the state's responsibilities to safeguard their rights and promote their wellbeing, [Part 9: Corporate Parenting of the Children and Young People \(Scotland\) Act 2014](#), (and associated [statutory guidance](#)), requires Scottish Ministers, local authorities and a range of other public sector bodies to uphold particular responsibilities in all areas of their work. Corporate parents must promote the interests of looked after children and care leavers, and enable them to make use of supports and services they provide. As such, Scotland's social security system must be one which meets the needs of these children and young people, and is accessible to them.

A further important consideration for the new Scottish Social Security Agency is around entitlement to discretionary support. The [Scottish Care Leavers Covenant](#) recognises the multiple barriers and disadvantage faced by care leavers in Scotland, and as such sets out the rationale for an 'assumption of entitlement' for care leavers to all forms of discretionary support from corporate parents and associated agencies. This means there should be a default position where care leavers are entitled to services, support and opportunities, up to their 26th birthday. Where discretion exists in definitions of vulnerability or in giving priority access, these are exercised in favour of care leavers<sup>5</sup>.

### **Principles - involvement of looked after children and care leavers**

There is a need to recognise looked after children, young people and their families as service users who should have opportunities to be involved in service design, delivery and evaluation of the social security system. This aspiration is clearly set out in the work of the Christie Commission on public service reform<sup>6</sup>. In line with corporate parenting duties and responsibilities, services should be committed to involving looked after children and care leavers, and to drawing on research evidence gathered on their experiences of services. Services should be open, responsive and willing to change service design to meet the needs of the

population. Care leavers are a particularly vulnerable group, often navigating the transition to adulthood and independence without the consistent family and social supports other young people rely on. Financial hardship and poverty impacts disproportionately on this group and we would strongly advocate that wherever discretionary powers are available they are exercised in favour of care leavers.

### **Disability Benefits**

The financial provisions for disabled children in the UK welfare system are complex. The devolvement of certain disability benefits could have implications for looked after children, young people and their carers. As of July 2015, just over 2000 looked after children in Scotland had a disability (around 13% of the total number of looked after children, excluding those children looked after for the duration of short break placements).<sup>7</sup> It is recommended that welfare rights officers are involved in advising families who are caring for a disabled child who is also looked after. A further group of consideration is care leavers who have a disability; according to Scottish Government figures for those care leavers eligible for after care services, 67 young adults were not in education, training or employment due to a long term illness or disability.<sup>8</sup> This is likely to be an underestimate.

Informal and formal kinship carers may be disproportionately affected by disability; research including kinship carers in Scotland found just over two thirds (68%) of grandmothers who were kinship carers had a long term illness or disability.<sup>9</sup> In relation to kinship carers, relevant disability benefits successfully applied for should be considered in addition to any kinship care financial assistance (when eligible) as set out in Scottish Government National Guidance on Part 13: Support for Kinship care to support the implementation of the Children and Young People (Scotland) Act 2014.<sup>10</sup>

### **Carers Allowance**

We welcome the Scottish Government's recognition of the vital role of carers in our society and the commitment to increasing Carers Allowance to the same rate as Jobseekers Allowance. Currently the Carers Allowance is relevant only to those carers in a caring role for a person who is disabled or in poor health. As highlighted above, this may be relevant for some kinship carers who care for a

disabled child. However, there is a further opportunity to consider the expansion and development of social security benefits for kinship carers in Scotland. The provision of financial support by local authority social work departments to kinship carers can be complicated. This is partly due to the different legal orders a child is subject to which leads to different financial entitlements and interaction with the UK benefits system. The Child Poverty Action Group in Scotland provides a useful guide to navigate the financial provision of kinship carers.<sup>11</sup> Under the current proposals, there is limited scope; however, we would be keen to discuss the extension of devolved powers or use of 'top up' payments with the Scottish Government. For example, under section 24 of the Scotland Act 2016, the Scottish Government has the power to make discretionary 'top-up' payments to individuals who are entitled to a reserved benefit which could be applied. One advantage of this approach would be the separation of financial assessment and allowance provision currently undertaken by local authority social workers to a national agency with the required skill set. This would disentangle the financial support to families from the practical and emotional support that can often be required.

### **Cold weather payments**

In considering any changes to eligibility for this payment, we would welcome the inclusion of care leavers as a priority group. Accessing and maintaining independent accommodation on leaving care is a recognised challenge for care leavers<sup>12</sup>. Finances and managing budgets can be particularly challenging for care leavers living independently for the first time. Many care leavers do not have the financial support of their families, and may be managing all their household costs on student bursaries, low wages, or unemployment benefits. Ensuring entitlement to cold weather payments would be a welcome support to this group to better support care leavers to meet basic heating costs on a limited budget.

The consultation paper notes that in winter 2015-16, there were an estimated 415,000 individuals eligible for Cold Weather Payments in Scotland with 119,000 actually receiving a payment, suggesting that less than 30% of those eligible received a payment. Access to payments is of equal importance to eligibility, and we view it as vital that should care leavers be considered an eligible group, this would result in actual payments in every case.

## **Funeral payments**

When considering how the new Social Security Agency should identify responsibility for funerals (and hence eligibility for funeral payments), we would welcome recognition of the complexities of some family circumstances, particularly for looked after children and care leavers. For example, if a child dies, currently funeral payments can only be made to carers of children (such as kinship carers) if the birth parent is in receipt of a qualifying benefit. Such rules could cause grieving families to be required to have difficult conversations with relatives they may not have good (or even existing) relationships with. Each family situation is unique, and should be treated as such, with sensitivity and respect. When a looked after child or care leaver dies, there must be consideration as to the role of corporate parents in meeting funeral costs if birth families are not in a position to do this.

Under existing rules, care leavers would only be eligible to receive funeral payments if they were in receipt of qualifying benefits. Given the principle of assumption of entitlement, we would welcome a change to rules to ensure all care leavers were eligible to receive a funeral payment should they be responsible for funeral costs of a relative or close friend.

## **Best Start Grant**

The proposals to increase the initial payment amount, to make additional payments for subsequent children, and to provide financial support at key transitional periods during the early years via the Best Start grant are warmly welcomed. Although we do not have national data on how many looked after young people and care leavers are young parents in Scotland, evidence from an English study indicates rates of parenthood among care leavers are significantly above the average rates for young people<sup>13</sup>. Young parents who are care leavers may have additional vulnerabilities and it is imperative that they are supported to be the best parents they can be. In particular, attention needs to be paid to ensuring stability and continuity for young women who are care experienced, in terms of their living circumstances, but also in terms of ensuring they maintain relationships with carers and staff who can provide advice and guidance<sup>14</sup>. It is crucial that effective support is available to

vulnerable families, and as such considerations for looked after children and care leavers in designing the Best Start Grant are key.

Under current arrangements, looked after young people who are pregnant and pregnant care leavers who are 16 and 17 cannot apply for a Sure Start Maternity grant until their baby is born. This does not enable them to use the grant to prepare for the arrival of their child as other parents are able to do. We recommend all looked after children and care leavers are eligible to apply and receive the Best Start grant during pregnancy, regardless of their receipt (or otherwise) of other benefits.

In identifying who should receive the payments for a child, it is important to consider complex family arrangements which can occur when children are looked after. Currently, Sure Start Maternity grants are payable to those in receipt of child benefit, or where the claimant lives with the child if there is no child benefit. There are also time limits during which the grant can be applied for (and proposals to extend these from 3 to 6 months are welcomed). Provisions should be in place for flexibility in rules such as these where a child is looked after. There may be situations where looked after children live with a family member or carer temporarily after birth, whilst the parents and social services work together for the child to return home. The Best Start grant may be crucial to enable the parents to ready the home for their child, but under current rules they would not be entitled to receive it.

In terms of considering circumstances whereby it may be appropriate to make payments more than once for an individual child, there should be consideration of circumstances which may occur within families and incur additional costs out with the usual family budget. For example, additional payments may be required to cope with costs if children and families move to new addresses, or attend new schools or nurseries.

Families of looked after children, and looked after children and care leavers who are parents should be supported to access Best Start grants through midwives and health visitors, childcare staff, and schools, with support from other corporate parents, such as social services staff if appropriate. This support

should be one part of a comprehensive child's plan and accompanying package of support.

There should be an integrated approach to the Best Start grant and Healthy Start vouchers, so as to simplify both processes and ensure maximum uptake of both initiatives.

### **Discretionary Housing Payment**

Recognition of the priority need for care leavers for discretionary housing payments would be warmly welcomed. In order to support planned transitions, and minimise instances of homelessness for this group, it is argued an assumption of entitlement should be presumed for applications from this group. Discretionary housing payments can be vital to enable care leavers to move from semi-independent living arrangements (such as supported tenancies), to independent accommodation (such as assured tenancies) in a planned and supported way. Rent will be required on both tenancies during this time, and discretionary housing payments should be available to care leavers for the full period of transition required, which may be lengthy when it includes organising the complete furnishing of the new tenancy.

Under current housing benefit rules, care leavers between the ages of 16-21 who receive housing benefit for their rent costs are exempt from the 'shared accommodation rate', which in general applies to all claimants aged under 35. An eligible care leaver can receive housing benefit for the full local housing allowance up to the age of 21, meaning they are able to live alone in a one bedroom flat. However, there is no such exemption for care leavers over the age of 21, who are only entitled to the 'shared accommodation rate'<sup>15</sup>. This could mean that a care leaver who has their full housing costs covered by housing benefit one day, would the next be responsible for a significant proportion of their rent despite no change in their material circumstances. Discretionary Housing Payments can be applied for in these circumstances, but there is no guarantee they will be awarded, and if they are, this may be time-limited. This could force vulnerable young people to move from accommodation where they are settled, into shared living arrangements. Corporate parenting responsibilities apply equally to all looked after children and care leavers, irrespective of their age, up to a care leaver's 26<sup>th</sup> birthday. It follows therefore that the above

exemption should also apply to care leavers under 26 irrespective of their age otherwise; or that there is recognition that this element of a housing payment is an entitlement, rather than a discretionary power.

### **Job Grant**

The availability of a job grant for individuals aged 16-24 work secure employment after a 6 month period of unemployment is welcomed, though there are a number of considerations we would advise. Firstly, we would suggest that care leavers should be entitled to this grant up until their 26<sup>th</sup> birthday, in line with corporate parenting responsibilities. We suggest careful thought and clarity is established around the eligibility criteria for the job grant. If it is dependent on receiving universal credit or job seekers allowance for a 6 month period, this would exclude all currently looked after children, and many care leavers aged 16 and 17, from receiving it as they are ineligible for these benefits.

In addition to a one-off payment, we would recommend consideration of other supports for care leavers in finding and maintaining employment, such as coaching or mentoring, built on a foundation of supportive, encouraging relationships<sup>16</sup>

### **Universal Credit Flexibility**

Considerations to enable rent to be paid directly to private landlords from the Social Security Agency are welcomed. Such arrangements would be beneficial for care leavers in some circumstances, for example, young people living independently for the first time in privately rented accommodation, who may not have the confidence, experience and necessary skills to budget potentially large sums of money to ensure their rent is paid<sup>17</sup>. Direct payments to the landlord would ensure the tenancy could be maintained while the young person is supported to develop their confidence and skills in budgeting, until such a time that they feel ready to administer the payments. The best arrangements for each individual are likely to be different, and the young person should retain the right to decide how payments are made, depending on their own unique needs and circumstances. Currently, some landlords do not accept tenants whose rent is paid for by HMRC. This can be a stigmatising experience for some care leavers who receive housing benefit and are seeking privately rented accommodation, and can add to existing barriers to finding and maintaining a home. If there was

new flexibility to universal credit in this way, it would be important to ensure mechanisms are in place to prevent private landlords from discriminating against tenants whose rent would be paid by the Social Security Agency.

### **Universal Credit Housing Allowance**

In considering new ways to use powers over the housing element of universal credit to support those who need assistance to meet their housing costs, we would recommend giving particular consideration to care leavers living in supported accommodation. Rent costs for supported accommodation can be high due to associated overheads such as support staff. In some circumstances, these costs are fully covered by housing benefit, but if the care leaver is in employment they often need to make a contribution to their rent. If a care leaver were in full time employment receiving a reasonable wage, they could become subject to increasingly high rent payments. Care leavers must not be put in a position where they are directly paying for their own support, through increasing rent costs, in order to remain in their accommodation. Universal credit housing allowance could be explored as an option for covering support costs, while the young person would cover rent costs from their earnings.

### **Advice, Representation and Advocacy**

There is a critical role for independent advice and advocacy for this vulnerable group in navigating such a complicated system as social security. Looked after children and care leavers face particular challenges to participation, and it is the responsibility of corporate parents to ensure these are overcome. For some children and young people expressing their views can be very difficult in many situations, and for others complex situations can arise where different family members or professionals hold competing views resulting in the child and young person's voice not being heard. There is a vital role for high quality, advocacy, which meets the needs of the individual, to empower and enable looked after children and care leavers to fully participate in decisions which affect their lives, whether in a one off situation or on an ongoing basis.

Independent advocacy plays a key role in ensuring children and young people have the opportunity to raise comments and complaints about matters which affect them, and access to this must be a feature of the new social security system.

## **Overpayments/debts**

Advice and support for looked after children and care leavers from an early stage in the application process is essential to avoid errors and mistakes which could potentially lead to overpayments. Care leavers experience significant and disproportionate financial vulnerability, and many do not have the same safety net of reliable family support that other individuals may have<sup>18</sup>. In cases where overpayments are made, the potential impact on wellbeing for this group of having to repay large sums of money could be extremely detrimental. In addition to the stress this could cause, care leavers may be managing on very strict budgets and even a small change to their income could have a huge impact on their ability to meet their basic needs for food and warmth. Any repayments for this group must be in the form of a manageable payment plan, which small deductions taken from payments over an extended period, to minimise the impact on the individual.

**Thank you for providing us with this opportunity to respond. We hope the feedback is helpful; we would be happy to discuss any aspect in further detail.**

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<sup>1</sup> Scottish Government (2016) [Children's Social Work Statistics Scotland 2014/15](#), Edinburgh: Scottish Government.

<sup>2</sup> SWIA (2006) Extraordinary Lives: Creating a positive future for looked after children in Scotland Edinburgh: Social Work Inspection Agency.

<sup>3</sup> Scottish Government (2016) [Education Outcomes for Looked After Children 2014/15](#), Edinburgh: Scottish Government

<sup>4</sup> Meltzer, H, Lader, D, Corbin, T, Goodman, R and Ford, T (2004) The mental health of young people looked after by local authorities in Scotland, London: TSO.

<sup>5</sup> Scottish Care Leavers Covenant (2015) <http://www.scottishcareleaverscovenant.org/covenant/>

<sup>6</sup> Christie, C (2011) [Commission on the Future Delivery of Public Services](#), Edinburgh: Scottish Government.

<sup>7</sup> Scottish Government (2016) [Children's Social Work Statistics Scotland 2014/15](#), Edinburgh: Scottish Government.

<sup>8</sup> Scottish Government (2016) [Children and Young People \(Scotland\) Act 2014: National Guidance on Part 13: Support for Kinship Care](#), Edinburgh: Scottish Government.

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<sup>9</sup> Nandy, S, Selwyn, J, Farmer, E and Vaisey, P (2011) *Spotlight on kinship care: Using Census microdata to examine the extent and nature of kinship care in the UK at the turn of the Twentieth century*, Bristol: University of Bristol.

<sup>10</sup> Scottish Government (2016) [Children and Young People \(Scotland\) Act 2014: National Guidance on Part 13: Support for Kinship Care](#), Edinburgh: Scottish Government.

<sup>11</sup> Child Poverty Action Group in Scotland (2014) [Kinship Care and benefits: the essentials](#), Glasgow: CPAG.

<sup>12</sup> Scottish Government (2013) Housing Options Protocols for Care Leavers: Guidance for Corporate Parents <http://www.scotland.gov.uk/Resource/0043/00435939.pdf>

<sup>13</sup> Winterburn, M (January 2015) 'Finding their Feet: Equipping care leavers to reach their potential', Centre for Social Justice, London <http://www.centreforsocialjustice.org.uk/library/finding-feet-equipping-care-leavers-reach-potential>

<sup>14</sup> Scottish Government (2013) Staying Put Scotland Guidance <http://www.gov.scot/Resource/0043/00435935.pdf>

<sup>15</sup> Shelter Scotland Information (2016) Housing Benefit for Under 35's [http://scotland.shelter.org.uk/get\\_advice/advice\\_topics/paying\\_for\\_a\\_home/housing\\_benefit/housing\\_benefit\\_for\\_under\\_35s](http://scotland.shelter.org.uk/get_advice/advice_topics/paying_for_a_home/housing_benefit/housing_benefit_for_under_35s)

<sup>16</sup> Scottish Care Leavers Covenant (2015) <http://www.scottishcareleaverscovenant.org/covenant/>

<sup>17</sup> Scottish Government (2013) Housing Options Protocols for Care Leavers: Guidance for Corporate Parents <http://www.scotland.gov.uk/Resource/0043/00435939.pdf>

<sup>18</sup> Children's Society (2016) The Cost of Being Care Free [http://www.childrensociety.org.uk/sites/default/files/pcr073\\_care-leavers-financial-exclusion-final.pdf](http://www.childrensociety.org.uk/sites/default/files/pcr073_care-leavers-financial-exclusion-final.pdf)