



# Children (Leaving Care) Act (Northern Ireland) 2002

## 2002 CHAPTER 11

An Act to make provision about children and young persons who are being, or have been, looked after by an authority within the meaning of the Children (Northern Ireland) Order 1995; to replace Article 35 of that Order; and for connected purposes. [22nd November 2002]

### **Further duties of authorities towards children whom they are looking after**

1. After Article 34 of the Children (Northern Ireland) Order 1995 (NI 2) (“the Children Order”) there shall be inserted the following Article—

#### **“Preparation for ceasing to be looked after**

**34A.**—(1) Where a child is being looked after by an authority, the authority shall advise, assist and befriend him with a view to promoting his welfare when the authority has ceased to look after him.

(2) Where a child who is being looked after by an authority is an eligible child, the authority shall have the following additional duties in relation to him.

(3) In paragraph (2) “eligible child” means, subject to paragraph (4), a child who—

(a) is aged 16 or 17; and

(b) has been looked after by an authority for a prescribed period, or periods amounting in all to a prescribed period, which began after he reached a prescribed age and ended after he reached the age of 16.

(4) The Department may prescribe—

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- (a) additional categories of eligible children; and
- (b) categories of children who are not to be eligible children despite falling within paragraph (3).

(5) For each eligible child, the authority shall carry out an assessment of his needs with a view to determining what advice, assistance and support it would be appropriate for the authority to provide him under this Order—

- (a) while it is still looking after him; and
- (b) after it ceases to look after him,

and shall then prepare a pathway plan for him.

(6) The authority shall keep the pathway plan under regular review.

(7) Any such review may be carried out at the same time as a review of the child's case carried out by virtue of Article 45.

(8) The Department may by regulations make provision as to assessments for the purposes of paragraph (5).

(9) The regulations may in particular make provision about—

- (a) who is to be consulted in relation to an assessment;
- (b) the way in which an assessment is to be carried out, by whom and when;
- (c) the recording of the results of an assessment;
- (d) the considerations to which the authority is to have regard in carrying out an assessment.

(10) The authority shall arrange for each eligible child whom it is looking after to have a personal adviser.”

### **Additional functions of authorities in respect of certain children**

**2.—**(1) In Article 25 of the Children Order (interpretation), at the end of paragraph (2) there shall be added the words “ but does not include accommodation provided under Article 34C or 35B ”.

(2) At the end of the cross-heading preceding Article 35 of the Children Order there shall be added the words “ and young persons ”.

(3) After the cross-heading there shall be inserted the following Articles—

#### **“The responsible authority and relevant children**

**34B.—**(1) The responsible authority shall have the functions set out in Article 34C in respect of a relevant child.

(2) In paragraph (1) “relevant child” means (subject to paragraph (3)) a child who—

- (a) is not being looked after by an authority;

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(b) was, before last ceasing to be looked after, an eligible child for the purposes of Article 34A; and

(c) is aged 16 or 17.

(3) The Department may prescribe—

(a) additional categories of relevant children; and

(b) categories of children who are not to be relevant children despite falling within paragraph (2).

(4) In paragraph (1) the “responsible authority” is the one which last looked after the child.

(5) If under paragraph (3)(a) the Department prescribes a category of relevant children which includes children who do not fall within paragraph (2) (b) (for example, because they were being looked after by a local authority in Great Britain), the Department may in the regulations also provide for which authority is to be the responsible authority for those children.

#### **Additional functions of the responsible authority in respect of relevant children**

**34C.**—(1) An authority shall take reasonable steps to keep in touch with a relevant child for whom it is the responsible authority, whether he is within the authority's area or not.

(2) An authority shall appoint a personal adviser for each relevant child (if it has not already done so under Article 34A).

(3) An authority, in relation to any relevant child who does not already have a pathway plan prepared for the purposes of Article 34A, shall—

(a) carry out an assessment of his needs with a view to determining what advice, assistance and support it would be appropriate for the authority to provide him under this Part; and

(b) prepare a pathway plan for him.

(4) The authority may carry out such an assessment at the same time as any assessment of his needs is made under any statutory provision referred to in sub-paragraphs (a) to (c) of paragraph 4 of Schedule 2, or under any other statutory provision.

(5) The Department may by regulations make provision as to assessments for the purposes of paragraph (3).

(6) The regulations may in particular provide for the matters set out in Article 34A(9).

(7) The authority shall keep the pathway plan under regular review.

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(8) The responsible authority shall safeguard and promote the child's welfare and, unless the authority is satisfied that his welfare does not require it, support him by—

- (a) maintaining him;
- (b) providing him with or maintaining him in suitable accommodation; and
- (c) providing support of such other descriptions as may be prescribed.

(9) Support under paragraph (8) may be in cash.

(10) The Department may by regulations make provision about the meaning of “suitable accommodation” and in particular about the suitability of landlords or other providers of accommodation.

(11) If it has lost touch with a relevant child, despite taking reasonable steps to keep in touch, the authority must without delay—

- (a) consider how to re-establish contact; and
- (b) take reasonable steps to do so,

and while the child is still a relevant child the authority must continue to take such steps until it succeeds.

(12) Paragraphs (7) to (9) of Article 18 apply in relation to support given under this Article as they apply in relation to assistance given under Article 18.

(13) Paragraphs (2) and (3) of Article 26 apply in relation to any decision by an authority for the purposes of this Article as they apply in relation to the decisions referred to in that Article.

### **Continuing functions in respect of former relevant children**

**34D.**—(1) Each authority shall have the duties provided for in this Article towards—

- (a) a person who has been a relevant child for the purposes of Article 34B (and would be one if he were under 18), and in relation to whom that authority was the last responsible authority; and
- (b) a person who was being looked after by that authority when he attained the age of 18, and immediately before ceasing to be looked after was an eligible child,

and in this Article such a person is referred to as a “former relevant child”.

(2) The authority shall take reasonable steps—

- (a) to keep in touch with a former relevant child whether he is within the authority's area or not; and
- (b) if the authority loses touch with him, to re-establish contact.

(3) The authority shall—

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- (a) continue the appointment of a personal adviser for a former relevant child; and
  - (b) continue to keep his pathway plan under regular review.
- (4) The authority shall give a former relevant child—
- (a) assistance of the kind referred to in Article 35B(1), to the extent that his welfare requires it;
  - (b) assistance of the kind referred to in Article 35B(2), to the extent that his welfare and his educational or training needs require it;
  - (c) other assistance, to the extent that his welfare requires it.
- (5) The assistance given under paragraph (4)(c) may be in kind or, in exceptional circumstances, in cash.
- (6) Subject to paragraph (7), the duties set out in paragraphs (2), (3) and (4) subsist until the former relevant child reaches the age of 21.
- (7) If the former relevant child's pathway plan sets out a programme of education or training which extends beyond his twenty-first birthday—
- (a) the duty set out in paragraph (4)(b) continues to subsist for so long as the former relevant child continues to pursue that programme; and
  - (b) the duties set out in paragraphs (2) and (3) continue to subsist concurrently with that duty.
- (8) For the purposes of paragraph (7)(a) there shall be disregarded any interruption in a former relevant child's pursuance of a programme of education or training if the authority is satisfied that he will resume it as soon as is reasonably practicable.
- (9) Article 35B(5) applies in relation to a person being given assistance under paragraph (4)(b) as it applies in relation to a person to whom Article 35B(3) applies.
- (10) Paragraphs (7) to (9) of Article 18 apply in relation to assistance given under this Article as they apply in relation to assistance given under Article 18.”.

### **Personal advisers and pathway plans**

**3.** After Article 34D of the Children Order (inserted by section 2) there shall be inserted the following Articles—

#### **“Personal advisers**

**34E.—**(1) The Department may by regulations require every authority to appoint a personal adviser for children or young persons of a prescribed description who have reached the age of 16 but not the age of 21 who are not—

- (a) the children referred to in Article 34A(10);