SCOTTISH STATUTORY INSTRUMENTS

2003 No. 608

CHILDREN AND YOUNG PERSONS

The Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003

Made - - - -	*18th December 2003*
Laid before the Scottish Parliament - - - -	*19th December 2003*
Coming into force - -	*1st April 2004*

The Scottish Ministers, in exercise of the powers conferred by section 73(2)(a), (c) and (d) and (3) of the Regulation of Care (Scotland) Act 2001(**1**) and section 17(1) of the Children (Scotland) Act 1995(**2**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003 and shall come into force on 1st April 2004.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires–

"the 1995 Act" means the Children (Scotland) Act 1995;

"appellant" means any person who has made representations under regulation 16 relating to the matters referred to therein concerning section 29(1) or (2) of the 1995 Act;

"compulsorily supported person" means a young person to whom a local authority is obliged to provide advice, guidance and assistance in terms of section 29(1) of the 1995 Act;

"currently looked after person" means a person who is over school age, but is less than eighteen years of age and who is being looked after by a local authority;

"discretionarily supported person" means a young person to whom a local authority has agreed to provide advice, guidance and assistance in terms of section 29(2) of the 1995 Act;

(**1**) 2001 asp 8.
(**2**) 1995 c. 36. Section 103(2) contains a definition of "prescribed" relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

"further education" has the meaning given to it in sections 1 and 6 of the Further and Higher Education (Scotland) Act 1992(**3**);

"higher education" has the meaning given to it in section 38 of the Further and Higher Education (Scotland) Act 1992;

"independent person" means a person appointed by the local authority under regulation 19 to assist in considering an appeal under these Regulations, which person shall not be a member of the political party forming the ruling group on the local authority or an officer of any local authority, and who has not been such a member or officer during the period of one year prior to being appointed to assist in considering an appeal under these Regulations;

"looked after" has the meaning given to it in section 17(6) of the 1995 Act;

"nominated officer" means the officer appointed under regulation 16(3).

"parent" has the meaning given to it in section 15(1) of the 1995 Act;

"parental responsibilities" has the meaning given to it in section 1 of the 1995 Act;

"pathway assessment" means an assessment of need carried out under section 29(5) of the 1995 Act;

"pathway co ordinator" means a person appointed by the responsible authority in terms of regulations 4 or 6;

"pathway plan" means a written plan setting out details of the advice, guidance and assistance that a local authority intends to provide pursuant to its duties under section 29(1) or 29(2) of the 1995 Act;

"pathway views" means the views of the young person given under regulation 3;

"prospective supported person" means a young person who has made an application to a local authority for assistance in terms of section 29(2) of the 1995 Act which has yet to be determined;

"responsible authority" means–

(a) in relation to a currently looked after person, the local authority looking after that person; and

(b) in relation to a compulsorily supported or a discretionarily supported person, the local authority which last looked after the person; and

"young person's supporter" means a person appointed by the responsible authority in terms of regulation 5.

(2) Any reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(**4**), which has been recorded and is consequently capable of being reproduced.

Involvement of the young person

3.—(1) When carrying out a pathway assessment, the responsible authority shall, unless it is not reasonably practicable to do so–

(a) seek and have regard to the views of the young person to whom it relates ("the pathway views"); and

(b) take all reasonable steps to enable the young person to attend and participate in any meetings at which the pathway assessment relating to that young person is being considered.

(**3**) 1992 c. 37.
(**4**) 2000 c. 7. Section 15 contains a definition of "electronic communications".

(2) In seeking the pathway views of the young person, the responsible authority shall include each of the matters referred to in Schedule 1.

(3) The responsible authority shall ensure that a written record of the pathway views is prepared and maintained ("the written record of the pathway views").

(4) The responsible authority shall, as soon as reasonably practicable, provide the young person with copies (where appropriate) of–

(a) the written record of the pathway views;

(b) the written record of the results of the pathway assessment;

(c) the pathway plan;

(d) the written record of the results of each review of the young person's pathway plan; and

(e) an explanation of the procedure for making representations under these Regulations,

and shall ensure that the contents of each document are explained to the young person.

Pathway co-ordinator

4.—(1) A local authority shall appoint for each compulsorily supported person and each discretionarily supported person in respect of whom it is the responsible authority, a pathway co ordinator.

(2) A pathway co ordinator shall be an individual person who is, in the opinion of the responsible authority, suitable and capable of performing the functions specified in paragraph (5).

(3) A pathway co ordinator may or may not be an officer of the responsible authority, but shall in either event act on its behalf.

(4) Before appointing a pathway co ordinator, the responsible authority shall seek and take into account the views of the young person as regards that appointment.

(5) The functions of a pathway co ordinator in relation to a compulsorily supported person or a discretionarily supported person are to–

(a) provide advice and support;

(b) ensure that person's pathway views are sought and taken into account;

(c) participate in that person's pathway assessment and the preparation of the relevant pathway plan;

(d) participate in reviews of the pathway plan;

(e) ensure where relevant that person's supporter is informed of that person's pathway views, pathway assessment, and pathway plan, subject in each case to that person's written consent having been obtained;

(f) co ordinate the provision of services arising from the pathway plan or its review;

(g) keep themselves informed about the progress and well being of that person; and

(h) maintain a written record of their discussions with that person.

Young person's supporter

5.—(1) A young person to whom these Regulations apply may ask the responsible authority to appoint a person to support them ("young person's supporter") in relation to some or all of the functions specified in paragraph (4).

(2) A young person's supporter shall be an individual person (who is not the pathway co ordinator) and may or may not be an officer of the responsible authority.

(3) A young person's supporter shall be nominated by the young person to the responsible authority which shall appoint the person so nominated, subject to that person being willing to accept the appointment and subject also to the responsible authority considering that person to be suitable and capable of performing the functions specified in paragraph (4).

(4) The functions of a young person's supporter are where requested to–

(a) provide advice and support;

(b) assist the young person in giving their pathway views;

(c) participate in the young person's pathway assessment and the preparation of the relevant pathway plan;

(d) participate in reviews of the pathway plan.

(5) The young person's supporter shall keep themselves informed about the progress and well being of the young person.

Preparation for when no longer looked after by a local authority

6. In carrying out its duties under section 17(1)(a) of the 1995 Act to prepare a currently looked after person for when that person is no longer looked after, a local authority shall, in relation to each currently looked after person in respect of whom it is the responsible authority–

(a) seek their pathway views;

(b) carry out a pathway assessment with a view to determining what advice, guidance and assistance it would be appropriate for the authority to provide to that person to prepare them for when they are no longer looked after;

(c) if the responsible authority considers it necessary or desirable to do so, prepare a pathway plan for that person; and

(d) if the responsible authority considers it necessary or desirable to do so, appoint a pathway co ordinator for that person.

Pathway assessment – general

7.—(1) The responsible authority shall prepare and publish a written statement detailing the manner in which the needs of currently looked after persons, compulsorily supported persons and prospective supported persons are to be assessed.

(2) In relation to each young person whose needs are to be assessed, the responsible authority shall conclude a written agreement with the young person ("the initial agreement") setting out details of–

(a) the name of the pathway co ordinator;

(b) the timetable for the pathway assessment; and

(c) the persons who are to be consulted for the purposes of the pathway assessment.

(3) The responsible authority shall provide a copy of the initial agreement to the young person and, so far as reasonably practicable to do so, and subject also to the young person's written consent first having been obtained, to those persons who are to be consulted for the purposes of the pathway assessment.

(4) Nothing in these Regulations shall prevent the carrying out of any assessment or review under these Regulations at the same time as there is being carried out any assessment or review or other consideration under any other enactment.

Pathway assessment – individual Cases

8.—(1) When carrying out its duties under section 29(5) of the 1995 Act, the responsible authority shall assess, in accordance with these Regulations, the needs of each compulsorily supported person and each prospective supported person who does not already have a pathway plan.

(2) Unless it is not reasonably practicable to do so, the responsible authority shall not complete a pathway assessment without the pathway views of the young person having been obtained and the written record of the pathway views being available.

(3) The responsible authority shall take into account the written record of the pathway views of the young person, which shall be recorded in the pathway assessment.

(4) In carrying out a pathway assessment, the responsible authority shall include each of the matters referred to in Schedule 2.

(5) The responsible authority shall ensure that a written record is maintained of the–

(a) information obtained in the course of completing a pathway assessment;

(b) deliberations at any meeting held in connection with any aspect of a pathway assessment; and

(c) results of a pathway assessment.

(6) In carrying out a pathway assessment, the responsibilities authority may seek the views of–

(a) the parents of the young person;

(b) any person who is not a parent but has parental responsibilities for a compulsorily supported person;

(c) any person who on a day to day basis cares for, or provides accommodation for, the young person;

(d) the head teacher or principal of any school or college attended by the young person or the education authority for the area in which the young person lives;

(e) any person providing health care or treatment to the young person;

(f) any pathway co ordinator appointed for the young person;

(g) any young person's supporter appointed for the young person; and

(h) any other person whose views the responsible authority, or the young person, consider may be relevant,

and the responsible authority shall take into account any such views that have been obtained.

Pathway assessments – timescales

9. The pathway assessment shall be completed–

(a) in the case of a compulsorily supported person, not more than three months after the date on which that person becomes a compulsorily supported person; and

(b) in the case of a prospective supported person, not more than three months after the date on which that person makes an application for advice, guidance and assistance under section 29(2) of the 1995 Act.

Pathway plans

10.—(1) In completing a pathway plan the responsible authority shall take account of the pathway assessment.