

Identification of looked after young people and care leavers by justice agencies.

Looked after young people and care leavers have frequently faced a range of adverse childhood events, struggle in their journey into adulthood and lack the consistent support that their non-looked after peers benefit from, including from family and social networks that they can rely on in times of crisis. In addition, care leavers often experience a range of negative and poorer outcomes than their peers. Involvement in the criminal justice system and prison is one such negative outcome in which care leavers are overrepresented. In a 2015 survey 26% of adult prisoners reported being looked after as a child and 16% being a care leaver. For young males the respective figures were 33% and 24%. The above experiences can compound and exacerbate difficulties for those involved in any aspect of the justice system.

Who are looked after children and care leavers?

Being a looked after child or care leaver is a formal status accorded to young people.

A young person can be looked after if they live in foster care; a residential unit or school; or within a secure care setting. They can be looked after with friends or relatives (in a kinship placement) or looked after at home if they are subject to a Compulsory Supervision Order through the Children's Hearings System. They might be looked after on a voluntary basis (with their parent's agreement); via an Order made through the Children's Hearings System; or certain types of Court Order.

A young person is a care leaver if they were looked after on their 16th birthday or subsequently.

Why do I need to identify looked after young people and care leavers?

A range of public bodies are considered 'corporate parents'. Corporate parents have various duties to all looked after children and care leavers up to (and including) the age of 25 under the [Children and Young People \(Scotland\) Act 2014](#) in order to uphold the rights and safeguard the wellbeing of these young people. Every corporate parent is expected to fulfil statutory duties in their own way, consistent with their purpose and functions, which include:

- Being alert to matters which adversely affect the wellbeing of looked after children, young people and care leavers;
- Assessing the needs of those children and young people for the services and support they provide;
- Promoting the interests of those children and young people;
- Seeking to provide opportunities which will promote the wellbeing of looked after children, young people and care leavers;
- Taking action to help children and young people access such opportunities and make use of the services and support provided

Without knowing who these duties apply to it will be impossible for corporate parents to fulfil these.

Care leavers are also eligible for aftercare services up to (and including) the age of 25. Aftercare is 'advice, guidance and assistance', which may include helping a young person to secure accommodation, education and employment opportunities. Local authorities have:

- A duty to provide 'aftercare' support to all care leavers under 19 years of age, unless they are satisfied that the young person's welfare does not require it;

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- A duty to assess requests for assistance from all care leavers aged 19-26. If the care leaver is assessed as having eligible needs which cannot be met by other means, the local authority must provide them with 'such advice guidance and assistance as it [the local authority] considers necessary for the purposes of meeting those needs';
- Can provide aftercare beyond the age of 26.

Young people cannot access such entitlements if they do not know they have these.

Youth and criminal justice agencies therefore need to identify such individuals so that their corporate parenting duties can be fulfilled; young people can be more appropriately supported and responded to; and be informed of and access the entitlements they have. This will also enable corporate parents to be proactive in ensuring that all formal and informal sources of support are explored and engaged where possible to ensure that young people are supported throughout. It is crucial that such identification is undertaken in a supportive, enabling manner that helps young people see the benefits of positively self-identifying as a looked after young person or care leaver. Such identification and recording should also support the development of a more accurate national picture of the number of looked after young people and care leavers in the youth and criminal justice system.

How can I identify looked after young people and care leavers?

All youth and criminal justice agencies coming into contact with young people aged under 26 should ask each individual:

Did you ever live with anyone who wasn't your parents while growing up, for example in foster care; a residential unit or school; in secure care; or with friends or relatives?

Did you ever have a social worker or go to a Children's Hearing and what was the outcome of this?

If a young person says yes what should I do?

This needs to be agreed on an organisation by organisation basis. However, in accordance with the [Scottish Care Leavers Covenant](#) it is suggested this should include:

- Recording this information.
- Asking the young person if they are currently working with any individual or organisation and with the young person's consent (having explained what you intend to do) and in accordance with information sharing protocols, notify this individual of the young person's contact with justice agencies. At a minimum, all looked after young people and care leavers should have a Child's Plan/pathways plan until at least age 18 and a named local contact in their local authority.
 - This could involve asking the young person "Are you currently working with any services? If so who? and can I contact them to let them know you are here and to see if they can do anything to help us and you?"
 - The benefits of this will include:
 - enabling information sharing and increasing young people's involvement in information sharing; reducing the young person's need to repeatedly tell their story;
 - helping a more informed decision to be made where options exist on how to proceed;
 - making those already involved with the young person and existing services aware of the situation to enable the provision of more personalised support and engagement with the young person throughout their involvement with the justice system;

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- and enabling the young person to be informed of any follow up plan for contact from this individual/agency.
- It would be useful to have generic contact details of local services available in each agency to assist the information sharing process.
- On notification of a young person's contact with justice agencies, the local authority should re-assess the young person's support needs and create an individual plan in partnership with the young person and other services on how the young person's entitlements will be met and corporate parenting duties fulfilled.
- Informing young people of their entitlements to aftercare dependent on their age as detailed above.