

# Children aged 16 and 17 in and leaving care in England

This **timeline** summarises key developments over a quarter of a century – from the landmark 1998 ‘Dobson letter’ to councils, to secondary legislation introduced in 2023 which sanctions homes which don’t provide care for children in care aged 16 and 17.

## 1998

The Labour Government’s Secretary of State for Health, Frank Dobson MP, sent a letter to every local authority in England containing this rallying cry:

*“Your council has a legal and moral duty to try to provide the kind of loyal support that any good parents would give to their children”.*

An annex to the letter set out – for the first time – central government’s expectations of local authorities as **corporate parents**. Local authorities were expected to, among other things, *“provide care, a home, and access to health and education and other public services to which all children are entitled according to their needs”.*[1]

## 1999

**Me, survive, out there? New arrangements for young people living in and leaving care**

A government consultation document set out major reforms which included ending *“the practice of forcing some children as young as 16 to leave care and fend for themselves”.*

In perhaps the most widely quoted passage of the era, the Secretary of State, Frank Dobson MP, stated: *“In developing the new arrangements, I asked everyone involved to look at things from the point of view of the young people and to ask, “Would this have been good enough for me when I was a child?” or “Would this be good enough for my own children?”.*[2]

## 2000

**Children (Leaving Care) Act 2000**

Amending the Children Act 1989, this legislation introduced a wide range of measures to ensure children and young people leaving care receive individualised support as teenagers and throughout their early adult years – including a new personal adviser role, pathway planning, a new duty on local authorities to keep in touch with care leavers, and a duty to provide vacation accommodation for those in further or higher education post-18.

Notably, **the legislation shifted financial responsibility for care leavers between the ages of 16 and 18 away from the social security system to local authorities.** This was in response to the widespread perception that local authorities sought to save money by getting young people ‘off their books’ and onto state social security as soon as possible.



At this time, large numbers of children were leaving care for ‘independent life’ before their 18th birthday. During the year ending 31 March 2002, **more than half (52%) of those leaving care were aged just 16 or 17.**[3]

Keep  
caring  
for  
children  
up to 18

# 2003

## If this were my child: A councillor's guide to being a good corporate parent

This government guide explained: *"For these vulnerable children to thrive, the entire council – members and officers – must play their part. Being a good corporate parent means we should: accept responsibility for children in the council's care; make their needs a priority; **seek for them the same outcomes any good parent would want for their own children**".*<sup>[4]</sup>

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# 2006

## Care matters: Transforming the lives of children and young people in care

One of the ambitions of this Green Paper was to herald, *"a turning point in the way young people in care are treated as they grow older. **We want to abandon a system where young people are forced to leave care as early as age 16. We want an approach which continues to support them as long as they need it, which ceases to talk about 'leaving care' and instead ensures that young people move on in a gradual, phased, and above all prepared way**".*<sup>[5]</sup>

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# 2007

## Care matters: Time for change

One of the changes promised in this White Paper was the amendment of secondary legislation to make it more difficult for local authorities to move children in care to 'independent accommodation'.

The White Paper stated: *"**Young people in care should expect the same level of care and support from their carers that others would expect from a reasonable parent. The local authority responsible for their care should be making sure that they are provided with this. We should not expect young people to make changes that would be difficult for any 16 year old – let alone for vulnerable 16 year olds – where the local authority has had to assume responsibility for their care. No local authority should be able to make a significant change, such as a move from a care placement to so called 'independent' accommodation, without both the proposal being rigorously scrutinised under the established care planning process and the child confirming that they understand the implications of any proposed change and positively agree to it**".*<sup>[6]</sup>

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# 2008

## Children and Young Persons Act 2008

As promised in the *Care matters* Green Paper, the Act introduced a tiered approach to homes/placements for children in care. Preference is given to a child in care living with their family, or with someone who has previously obtained an order from the family court concerning the child. If this is not possible, then the law states a local authority must find a home (placement) for the child which is the most appropriate available, from these options:

- A home with foster carers that the child is already connected to (through their family or friendship networks)
- A home with foster carers not previously known to the child
- A children's home
- Other arrangements

Subject to the child's welfare, and as far as reasonably practicable, this new tiered approach also prioritised the child living in their home area, avoiding disruption in their education and siblings in care living together. A new duty for placements to meet the needs of disabled children was also introduced.

# 2008

At that time, 'other arrangements' were not defined in law. However, the Children and Young Persons Act 2008 introduced a safeguard for children being considered for a home/placement falling within other arrangements – a duty on local authorities to hold a review of the child's circumstances before such a move happens (unless a move is urgently required to safeguard the child's welfare).



On 31 March 2009, 2,900 children in care aged 16 and 17 were living in semi-independent or independent accommodation, which was then unregulated. This was **22%** of all 16 and 17 year-olds in care at that time.<sup>[7]</sup>

The 2008 Act also introduced a duty on local authorities to secure sufficient accommodation that meets the needs of children in care, and children in their area whose welfare requires them to be looked after.

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# 2010

## The Care Planning, Placement and Case Review (England) Regulations 2010

This secondary legislation introduced a duty to hold a review if the local authority proposes to stop looking after a child, together with new duties and procedural safeguards in respect of children in care moving from foster care or children's homes to other arrangements (see Children and Young Persons Act 2008 above).

## The Care Leavers (England) Regulations 2010

The Explanatory Memorandum published alongside this secondary legislation explained:

*"These Regulations complement changes introduced by the Care Planning, Placement and Case Review (England) Regulations 2010 which specify how local authorities are required to manage the review of looked after children's cases, so that young people aged 16+ who are not able to return to their families, should cease being looked after before legal adulthood **only if they have been properly prepared and [are] ready for this significant step in their lives**".<sup>[8]</sup>*



In the same month that The Care Leavers (England) Regulations 2010 were laid before Parliament, the then Children's Minister, Tim Loughton MP, chose 'fairness' as one of his themes when speaking at the annual leaving care conference:

*"... there was more than an element of truth in the comments made by Conner, the teenager in the BBC's recent Panorama investigation on social work in Coventry, when he described children in the care system as living like **'second class people'**. **How else do we explain the fact that some 21 per cent of care leavers were 16 when they left home, while 24 is the average age for the rest of our children to leave the family home?**".<sup>[9]</sup>*

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# 2014

## Children and Families Act 2014

This legislation introduced 'Staying Put' for children in settled foster placements, whereby they could remain as part of their foster family up to the age of 21 (though this was no longer an official fostering arrangement).

# 2015

## AMENDMENT: The Care Planning, Placement and Case Review (England) Regulations 2010

In 2015, this secondary legislation was amended so that the local authority's director of children's services must give their approval before a child aged 16 or 17 stops being accommodated. This was an attempt to reduce to the bare minimum the numbers of children experiencing the problems associated with leaving care before the age of 18.

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# 2017

## Children and Social Work Act 2017

This legislation introduced seven corporate parenting principles, reflecting existing local authority legal duties towards children in care and care leavers. It also required local authorities to set out their 'local offer' for care leavers, covering a range of matters including education, health and well-being, and it extended leaving care assistance to age 25.

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# 2020

## Reforms to unregulated provision for children in care and care leavers

Government launched a consultation on the use of unregulated accommodation for children in care and care leavers, noting that: *"The number of children in care aged 16 or 17 placed in unregulated settings has increased from 2,900 in 2009 to 6,100 in 2019"*.

The consultation document stated the government was, *"particularly concerned about increases in the number of children under the age of 16 being placed in this type of provision... the quality of the provision is variable, and does not always meet the needs of young people and keep them safe. We know that young people placed in this provision are more likely to go missing and can be particularly vulnerable to exploitation"*.<sup>[10]</sup>

Government proposed to prohibit the use of unregulated accommodation for children in care aged 15 and under, and to introduce national standards for independent and semi-independent accommodation for children in care aged 16 and 17.

The consultation document asked for views on whether 'care' and 'support' should be legally defined, since the government planned that independent and semi-independent accommodation would **not provide care** to children in care aged 16 and 17. (Primary legislation requires any establishment providing care and accommodation wholly or mainly for children to be registered with Ofsted as a children's home).

Although 84% of respondents backed 'care' and 'support' being legally defined, the government later announced that this was not necessary because the planned national standards and Ofsted registration process would *"better define this type of provision, making clear the distinction between a children's home and a legitimate independent or semi-independent provider"*.<sup>[11]</sup>

# 2021

## The Care Planning, Placement and Case Review (England) (Amendment) Regulations 2021

Through this secondary legislation, the government defined homes/placements falling within other arrangements for **children in care aged 15 and under**.

All of these homes/placements provide care to children aged 15 and under. The effect of this secondary legislation was to prohibit the use of (what was still then) unregulated accommodation for children in care aged 15 and under, but not for those aged 16 and 17.

## The Supported Accommodation (England) Regulations 2023

Through this secondary legislation, the government put on a statutory footing four categories of accommodation falling within **other arrangements for children in care aged 16 and 17**:

- Supported accommodation **where the child lives alone**
- Supported accommodation in a shared or group living situation in premises for **children in care (aged 16 or 17) and care leavers (no maximum age)**
- Supported accommodation **where children in care aged 16 and 17 share premises with adults of any age and circumstances** (including vulnerable adults leaving mental health inpatient care or prison)
- Supported accommodation provided **by an individual or individuals in their own home (not subject to fostering regulations or standards)**

The secondary legislation introduced standards for the first time for supported accommodation for children in care and care leavers aged 16 and 17. These are modelled on standards for children's homes (where the average age of children is 14-15 years) with **very significant omissions**, including **no requirement** to:

- Provide care to children (*this is why campaigners describe it as 'care-less'*),
- Have qualified staff or managers, or
- Appoint independent persons to monitor the home on a monthly basis.

The secondary legislation fails to prohibit corporal punishment, which has been banned in children's homes since 1990.

Only a sample of 'supported accommodation undertakings' will be inspected by Ofsted on a three-yearly cycle, and providers (most are private companies) will be given two working days' notice of inspections. By contrast, all inspections of children's homes are unannounced and most children's homes are inspected annually, though often twice a year.

Accompanying statutory guidance hasn't ruled out 'mobile or non-permanent settings' - "**such as motorised caravans, barges and boats**" - stating that these may be used for children in care aged 16 and 17 in "very exceptional circumstances".<sup>[12]</sup>

Children who live in supported accommodation do not receive any day-to-day care; if they did, the providers would be operating an unregistered children's home, which is illegal.<sup>[13]</sup> Rather than clearly explaining the distinction between 'care' and 'support', as promised by government in 2021, the statutory guidance speaks confusingly of a "continuum of care and support".<sup>[14]</sup>

Latest government statistics suggest that **up to 50%** of children in care aged 16 and 17 lived in care-less accommodation on 31 March 2024.<sup>[15]</sup>



In August 2024, Ofsted's National Director for Social Care reported that the regulator was "increasingly" hearing about *"the use of terms such as 'higher needs support' or 'high support', which stretch the parameters of supported accommodation too far. These terms are unhelpful and misleading. They can mask what is actually being commissioned or provided. In some cases, it means that providers are operating unregistered children's homes and that children are not getting the care they need from people who are suitably skilled and qualified"*.<sup>[16]</sup>



It therefore appears that Ofsted has evidence of **children in care aged 16 and 17 with high levels of need being sent to live in care-less accommodation**, as the #KeepCaringTo18 campaign warned would happen.

If the legal and policy changes introduced by the last government were clear, and in the best interests of children, Ofsted's National Director of Social Care would not have had to issue the statement below so soon after the 2023 Regulations came into force:

*"We do not expect to see children moving into supported accommodation if:*

- *they have high or complex needs*
- *their liberty is restricted*
- *they need a high level of ongoing care and supervision, possibly requiring high staffing levels*
- *they require help and support with personal care*
- *there is no realistic expectation for increased independence in the foreseeable future"*.<sup>[17]</sup>

## The #KeepCaringTo18 campaign urges the government to reinstate the previous strong political commitment for protecting teenagers in care...

➡ **Every child in care should receive care where they live until at least age 18.**

➡ **Leaving care at age 16 or 17 should be extremely rare, occurring only when it is demonstrably in the best interests of the individual child.**



We call on the new government to urgently amend The Children's Homes (England) Regulations 2015 to make provision for homes specialising in the care of children aged 16 and 17. This would ensure every child in care who lives in a group-based, residential setting receives care where they live, and that the same legal safeguards are in place for children of all ages.



The forthcoming Children's Wellbeing Bill should include an explicit requirement that all children in care are provided with care where they live, just as happens in loving families.



We further recommend the regulation of supported accommodation for adults who have left care.

**We believe that no good parent would sanction the use of the current arrangements for their child.**

The **#KeepCaringTo18** campaign was set up in early 2020, after the former government indicated its plan to regulate semi-independent and independent accommodation – where children do not receive any care. **Our goal is to make sure that every child in care receives care where they live until at least age 18.**

The campaign is co-ordinated by Article 39 with a steering group of charities – Amour Destiné, The Care Leavers' Association, National Network for the Education of Care Leavers, National Youth Advocacy Service and Together Trust – alongside individual experts. Over 70 organisations and thousands of individuals support the campaign. In February 2022, as part of the campaign, a delegation of care experienced adults handed in a petition to 10 Downing Street signed by over 10,700+ people demanding care for every child in care.



# What's happened in law and policy for teenagers in care – summary

From 1998 to 2021, there was **strong political consensus** that children should not leave care before the age of 18.

Law and policy changes between 2021 and 2023 **reversed a longstanding, progressive movement** within the children's care system that had sought to emulate loving families.

In 2021, the government introduced secondary legislation that, **for the first time, used age as a distinguishing feature in placement decision-making for children in care.**

At the same time, government also converged policy developments for children in care and care leavers aged 16 and 17 – **sanctioning both a) the absence of care for children in care, and b) children leaving care aged 16 or 17.**

Since 2019, when the former government first pledged to regulate what was then unregulated accommodation, the use of such accommodation by local authorities has **increased significantly.**

In March 2024, **12% of those leaving care were aged 16 or 17, a proportion last seen in 2017.**

**In 2019, 22% of children in care aged 16 and 17 lived in care-less accommodation; by 2024, this appeared to have risen to around 50%.[18]**

Local authorities reported that **only 65% of 17 year-olds leaving care** were living in **suitable accommodation** on 31 March 2024. **Over a quarter (28%) of corporate parents had no information about the suitability of accommodation** which children this age were living in post-care.[19]

Law and policy developments in 2023 now see children in care and care leavers aged 16 and 17 **living in the same properties.** Children's experiences of living in these properties will be very similar, whether or not they are still in care or have been deemed ready to leave care.

It is now part of the statutory scheme (since 2023) that **shared properties with adults (of no maximum age)** are an official part of the children's care system – a 'care placement' – for children in care aged 16 or 17, as well as for those leaving care at this young age.

If we focus on children's day-to-day lives, children in care aged 16 and 17 living in care-less accommodation in March 2023 could be said to be **hidden care leavers.**

Despite many decades of knowledge of the risks of institutional child abuse, brought sharply into focus most recently by the Independent Inquiry into Child Sexual Abuse, **safeguards for children living in care-less accommodation have been made much weaker than for those living in children's homes.**

Even corporal punishment has not been prohibited, with government stating that this is **unnecessary because there is no-one acting in place of parents in care-less accommodation.**

This does not explain why the 2023 Regulations for care-less accommodation include provisions relating to the use of restraint, and nor does it answer how local authorities are meeting their corporate parenting duties towards these children. These duties include a requirement to have a placement plan for each child which sets out: **"How on a day to day basis [the child] will be cared for and [the child's] welfare will be safeguarded and promoted by the [person responsible for the child at the accommodation]"**. [20]

## References

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13. Section 11 Care Standards Act 2000 makes it an offence to operate a children's home without having registered with Ofsted. The definition of a children's home is in section 1.
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15. Statistics showing the number of looked after children aged 16 and 17 on 31 March 2024, and the number of children living in semi-independent and independent accommodation (supported accommodation), together with those in 'other' categories where the supported accommodation provider had not submitted their application for registration before the statutory deadline, are available here: <https://www.gov.uk/government/statistics/children-looked-after-in-england-including-adoption-2023-to-2024>
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