



AGREEMENT ON THE MANAGEMENT OF LEAVING CARE WORK WHERE YOUNG PEOPLE MOVE BETWEEN LOCAL AUTHORITIES IN SCOTLAND

1. INTRODUCTION

The purpose of this Agreement is to try to achieve clarity and consistency across Local Authorities in Scotland as to how each will deal with young people leaving care living in, or moving into, a different Authority within Scotland other than the one where they were last 'looked after'.

In reaching this Agreement the aim is to formally adopt certain 'good practice' guidelines and in so doing ensure a consistent response is given to young people across Scotland. These 'good practice' guidelines automatically include the principles that young people's views and wishes will be taken into consideration and that the original Authority from which the young person moves (the 'Responsible' Authority) and the Authority to which the young person goes to live (the 'Receiving' Authority) will co-operate and give one another maximum assistance in ensuring young people's needs are met.

2. TERMINOLOGY AND CLARIFICATION OF LEGAL POSITION

S29 of the Children (Scotland) Act 1995 sets out local authority responsibilities to young people who leave care after they are over school leaving age. Under S29 (1) there is a **duty** – unless the local authority is satisfied that the young person's welfare does not require it – to advise, guide and assist those under 19. Under S29 (2) there is a **power** to provide advice, guidance and assistance to young people between 19 and 21 who apply to the local authority, unless the authority is satisfied that the young person's welfare does not require it. Local authority assistance may be in cash or in kind.

S73 (1) of the Regulation of Care (Scotland) Act 2001 amends S29 to include a duty on local authorities to:

- carry out an assessment of the needs of young people leaving care who they have a duty or power to advise, guide or assist under S29;
- establish a procedure for considering representations, including complaints, made to them about the discharge of their functions under S29

S73 (2) of the same act gives the Scottish Executive power to make regulations about:

- the manner in which assistance is to be provided to young people leaving care under S29
- who is to be consulted in relation to an assessment of needs

- the way an assessment is to be carried out, by whom and when
- the recording of the results of an assessment
- the considerations to which the local authority are to have regard in carrying out an assessment
- procedures for considering representations including complaints

The section also provides that Scottish local authorities have a duty to assist young people leaving care, some from England and Wales, who are in their area. Similar reciprocal arrangements exist south of the border for Scottish young people leaving care. Ministers may make regulations to exclude these people from the duties if they are the responsibility of a local authority in England or Wales.

The Children (Leaving Care) Act 2000 makes provisions for throughcare and aftercare similar to S29 of the Children (Scotland) Act 1995. The 2000 act makes detailed provision for the support to be provided to young people leaving care, by amending the Children Act 1989.

S6 (4) of the 2000 act allows UK Ministers to make regulations removing the entitlement of certain young people being looked after or leaving care to DWP benefits in Scotland. The young people included in the regulations must correspond to those categories of young people whose benefit entitlement is removed in England and Wales by other provisions in S6. These are essentially young people of 16 or 17 who have been looked after (in terms of the Children Act 1989, rather than Scottish legislation) for 13 weeks since the age of 14, were being looked after at their school leaving date and are either still being looked after ('currently looked after person') or have now left care ('compulsorily supported person').

S17 (6) of the C(S)Act defines the term 'looked after'.

Young people referred to as 'looked after and accommodated' have been provided with accommodation as defined in S25 (and S70) of the C(S)Act.

The 2000 Act clarifies the duties and responsibilities toward formerly looked after and accommodated young people as follows :

NEW DUTIES RE: YOUNG PEOPLE LEAVING CARE

<u>New Duties</u>	Looked After and Accommodated / Move to live independently	Looked After and Accommodated and Returning Home	Looked After at Home
Assessment	✓	✓	✓
Finance	✓	✓	x
Access to Resolutions / Complaints System	✓	✓	✓
Leaving Care Plan	✓	✓	✓
Key Worker	✓	✓	✓
Post Care Reviews	✓	✓	✓
Performance Measures Apply	✓	✓	✓
<u>Existing Duties</u>			
Sect 17 (2) (prep. For leaving care)	✓	✓	✓
Sect 29 (advice, guidance, support)	✓	✓	✓
Section 30 (advice etc those in training, FE beyond age 21 years)	✓	✓	✓

The 2000 Act introduces the concept of the **Responsible Authority**, ie the authority which last legally 'looked after' the young person. It is the **Responsible Authority's duty** to ensure that the provisions the Act imposes in respect of formerly looked after and looked after and accommodated young people are carried out, regardless of where that young person later moves to live. Responsible Authorities may ask Receiving Authorities to exercise day to day duties in respect of young people who have moved but the receiving Authority will only do so *on behalf of* the Responsible Authority. The Act makes it very clear that the *financial responsibility* in exercising these duties lies with the Responsible Authority, not the Receiving Authority.

3. TO WHOM DOES THIS AGREEMENT RELATE?

This agreement only relates to

- Formerly 'Looked After' and
- Formerly 'Looked After and Accommodated' young people

This agreement does not relate to

- Young people still legally 'Looked After' and 'Looked After and Accommodated', towards whom Local Authorities continue to have duties and responsibilities imposed by various sections of the Children (Scotland) Act itself. Arrangements for 'Receiving' Authorities to supervise 'Looked After' young people on behalf of 'Responsible' Authorities will therefore continue as previously.
- Young people 'in need' or qualifying under Section 22 of the Children (Scotland) Act. Under this Section, Local Authorities have a duty to safeguard and promote the welfare of children in their area and provide a range of services appropriate to the children's needs. If a young person moves from one Authority to another, the new Authority will become responsible for reassessing whether that young person is in need and for deciding whether to offer services and support accordingly. There will thus be no ongoing responsibility for the Authority where the young person previously resided.

4. GOOD PRACTICE GUIDELINES

Where a young person ceases to be looked after or looked after and accommodated and moves to another Authority, or remains in the Authority in which they are currently placed but this is not the Responsible Authority, the following general principles will apply: -

- 1) If at all practically possible, the Responsible Authority will itself remain directly involved with the young person, thus minimising or avoiding the need for a Receiving Authority to become involved.

- 2) The Responsible Authority, with the exception of very limited emergency/short term assistance will retain complete financial responsibility as regards both duties and powers prescribed by the Children (Leaving Care) Act and the Children (Scotland) Act, in respect of the young person who has moved.
- 3) If a young person is to move, or does move, to another Authority, the Responsible Authority will do all in its power to ensure that this move takes place in as planned a fashion as possible.
- 4) Where a young person is moving from one Authority to another on a planned basis, or arrives in another Authority unannounced, the Responsible and Receiving Authorities will give each other maximum co-operation and work together in providing a service to that young person.
- 5) Where a young person moves from one Authority to another on a planned or agreed basis, the Receiving Authority will provide the young person with exactly the same standard of aftercare service as they would to a young person from their 'own' Authority.
- 6) In all moves between Authorities, young people should be involved throughout in the planning of such decisions, be clear as to what information about them is being exchanged between Authorities and be clear what new arrangements are being made for their ongoing support once they have moved.

5. PROCEDURES

A. PLANNED MOVES

- 1) The Responsible Authority will decide whether it is practically possible for it to remain involved directly with the young person and wherever this is the case should do so. This will especially apply to situations where a young person is moving to /is leaving care just across the borders of a neighbouring authority (and may well be nearer the offices of the Responsible rather than the Receiving Authority).
- 2) The responsible Authority, even in such instances as 1) above, can nevertheless expect to receive from the Receiving Authority advice and information as to local procedures and facilities which are available to young people leaving care within that area.
- 3) The Responsible Authority will notify the Receiving Authority in writing that a young person entitled to aftercare support is living in their area, providing that the young person agrees, and that the Responsible Authority will be continuing to assume responsibility for that young person's support. (See standard Letter of Notification – Appendix One).

- 4) Where distance and access to knowledge of local resources make it difficult or impractical for the Responsible Authority to exercise its duties directly itself, it will request a Receiving Authority to carry out those duties on its behalf. When this is the case the following will apply:
- Irrespective of which Authority within Scotland to which the young person is moving, the Responsible Authority will retain primary responsibility for carrying out its duties in respect of that young person and remain actively involved with them, for a minimum period of three months from the date that young person takes up residence in the Receiving Authority.
 - During this period the case will not be transferred to the Receiving Authority and there will be no expectation, other than as listed in the points detailed below, for the Receiving Authority to become directly involved with that young person. This will retain a minimum period of continuity for the young person and ensure that that young person really is likely to remain living in the Receiving Authority.
 - During the minimum three month period, the Responsible Authority can expect to receive from the Receiving Authority advice and information as to local facilities, procedures and information that the young person will need living in their new area, plus a 'minimum' service to the young person.
 - A minimum service from the Receiving Authority could involve telephone information; exchange of written information, in accordance with the young person's consent form, or attendance at meetings to provide such information; or a 'duty' service in line with how that Receiving Authority might deal unallocated cases within its own area.
 - Once it is clear that the young person is likely to remain in their 'new' area, and having decided it is not practicable for the Responsible Authority to continue to carry out its ongoing duties directly itself, the Responsible Authority will refer the young person to the Receiving Authority.
 - The process of making a referral will be that, with the young person's consent, the Responsible Authority will send to the Receiving Authority a copy of the young person's most recent Pathway Plan (and any such other information that may be relevant), as well as completing whatever usual referral form/process the Receiving Authority would normally expect to receive. A further expectation is that, wherever appropriate, Risk Assessments on that young person will be shared. In providing such information and making such a referral, it is understood that the young person will have seen the information being sent, preferably had an input into its collation, been involved in the process of referral and understood why information about them is being exchanged with another Service.
 - On receipt of such a referral, the Receiving Local Authority will, other than in exceptional local circumstances, allocate a Worker to that young person within 20 working days of receipt of that referral.

- Once a worker has been allocated, the expectation will be that at least one (and wherever necessary more) joint meeting(s) will take place between the young person and the workers from the Responsible and Receiving Authorities. Besides obviously introducing the new Worker to the young person, the meeting will review the Pathway Plan and set a clear date for the new worker and Receiving Authority to assume responsibility for the young person's case. This whole process should be completed within a maximum period of 3 months of the Receiving Authority receiving the referral, and in most cases considerably sooner.
 - The Receiving Authority will then, from the agreed date of transfer, give the young person a Leaving Care service based on their assessed need. This will remain the case so long as the young person remains living in that Authority and so long as they qualify for an aftercare service.
- 5) As the Receiving Authority is carrying out duties on behalf of the Responsible Authority, two further expectations will be met:
- Firstly that the Responsible Authority will give to the Receiving Authority the name of a 'Named Person' in that Authority (who could be a Worker or Manager) so that the Receiving Authority has someone to make a reference to in respect of the young person, especially in regard to financial matters.
 - Secondly, the Receiving Authority will make available to the Responsible Authority periodic information as to how they have carried out the legal duties in respect of the young person, particularly in relation to the tracking and regular review of the Pathway Plan. In order to do this, each Authority may keep records which differentiate its 'own' young people from those of other Local Authorities.
- 6) A situation that commonly arises is that a young person, Looked After by a Responsible Authority and becoming eligible for aftercare, has been placed for some time within the area of another Authority. This most often occurs in a foster home or placement with a relative/friend etc. The young person then wishes to remain in the Authority, to which they have become used, established support networks, made friend's etc. In many cases, such a young person will be referred by either the Responsible or Receiving Authority (who could be supervising the case at the request of the Responsible Authority) to the local aftercare service at the same time as any other young person legally Looked After by that Authority. In these instances the three month minimum qualifying period will be deemed to have been met. Referral can thus take place by sending that Authority a copy of the young person's Pathway Plan, etc. and transfer proceeds as above.

B. UNPLANNED MOVES

Formerly Looked After young people will sometimes move to the area of another Authority of their own accord or without the knowledge of their Responsible Authority. They may then present themselves to, or be referred to, the Receiving Authority in whose area they are living, and ask for help and assistance. In such instances the following will prevail: -

- a) The Receiving Authority will initially interview the young person, or the person making the referral, and obtain a picture of that young person's immediate circumstances.
- b) The Receiving Authority will then make contact with the young person's Responsible Authority to seek guidance as to how best to respond. This will be especially important as regards formerly Looked After and Accommodated young people who, being 16 or 17, will still be completely financially dependent on their Responsible Authority, who therefore in turn will be responsible for meeting that young person's accommodation and personal expenses.
- c) Depending on the advice of the Responsible Authority, the Receiving Authority will give the Young Person appropriate advice and assistance to access emergency accommodation and money if required. The costs of doing so will need to be agreed in advance with the Responsible Authority and recharged to them accordingly.
- d) If the situation is not an emergency, and the Responsible Authority agrees to fund wherever a young person is living or agrees for the young person to remain where they are now, then the two Authorities should discuss together how best to continue providing support to that young person and in so doing meet the duties and obligations of Section 6 of the Children (Leaving Care) Act and the Children (Scotland) Act.
 - If the young person has very recently been receiving support from their Responsible Authority then that Authority should re-establish such responsibility, at least for the 3 month period, and in so doing later decide whether or not to transfer the case in a planned way as above.
 - If the young person has been estranged from their Responsible Authority for a significant period the Receiving Authority will endeavour to provide a service, bearing in mind however that it will be doing so on behalf of the Responsible Authority, with the implications financial and otherwise that go with this.

6. FINANCIAL ISSUES

- a) The responsibility of meeting formerly Looked After or Accommodated young person's accommodation and personal expenses costs, in relation to one off payments, accommodation and personal expenses costs, miscellaneous payments, top up payments, incentive payments, leaving care grants, educational grants etc will be met by the Responsible, not the Receiving, Authority (according to whatever financial criteria that Responsible Authority has determined for its 'own' young people living in its 'own' locality).
- b) Under the above circumstances, it will be required by all Receiving Authorities to request permission of the Responsible Authority (by whatever procedure exists locally in that Authority) in any circumstance in which the Receiving Authority is to spend money on a young person on behalf of the Responsible Authority.

- Wherever young people are moving to, or live within, the boundaries of a Receiving Authority on a planned basis, this should always be possible and strictly adhered to.
 - In unplanned, emergency situations, some common-sense on behalf of both parties will need to be accepted but the principle will remain that the Receiving Authority will make contact with, and seek agreement from, the Responsible Authority. This should be done in the shortest possible time, and the Responsible Authority will be reasonable in its expectations of the Receiving Authority as to what resources and expenditure are realistically needed in the context of the local situation.
 - The above process will include, where realistic, a Receiving Authority trying to contact a Responsible Authority's 'Out of Hours' service wherever possible.
- c) The duties of Responsible Authorities are clearly laid out in Regulations and Guidance (Chapter 5). This agreement proposes that authorities should not charge one another for the 'social work/aftercare work' element of assisting a formerly Looked After or Accommodated young person. Charging arrangements are seen as likely to lead to disputes between Authorities, to generate considerable administrative and bureaucratic time and not least to lead to a confusing and non 'needs led' service for young people. Instead Authorities will operate the same reciprocal agreements as they do now with children/young people Looked After, whereby one Authority supervises the child/young person on another Authorities behalf. Young people should be able to receive a service based on the level of their assessed need.

APPENDIX A

Address of SWD/
Throughcare Team
from Responsible
Local Authority

Dear
(Receiving Local Authority Team Manager)

I write to inform you that the following previously Looked After/Accommodated young person is now living in your Local Authority.

Name of Young Person

.....

Date of Birth

N.I Number

.....

.....

Address where living

.....

.....

.....

Our Local Authority, will however be remaining responsible for them for the foreseeable future.

Social Worker/Aftercare Worker:

whose Manager is

Tel No:

Address:

.....

Yours faithfully,

(Responsible Local Authority Representative)

YOUNG PEOPLE MOVING BETWEEN AUTHORITIES LEAVING CARE

FLOW CHART

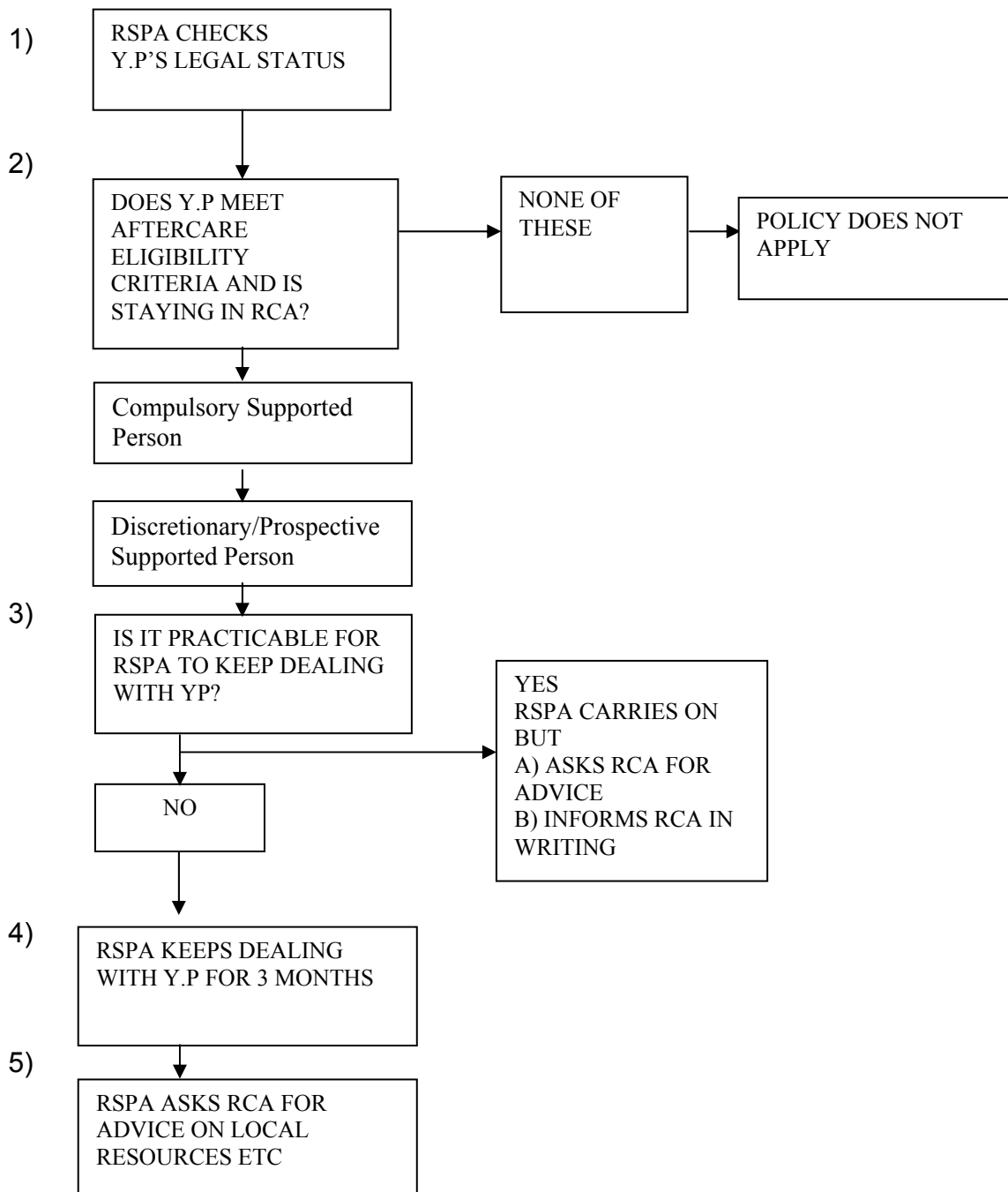
PLANNED MOVES

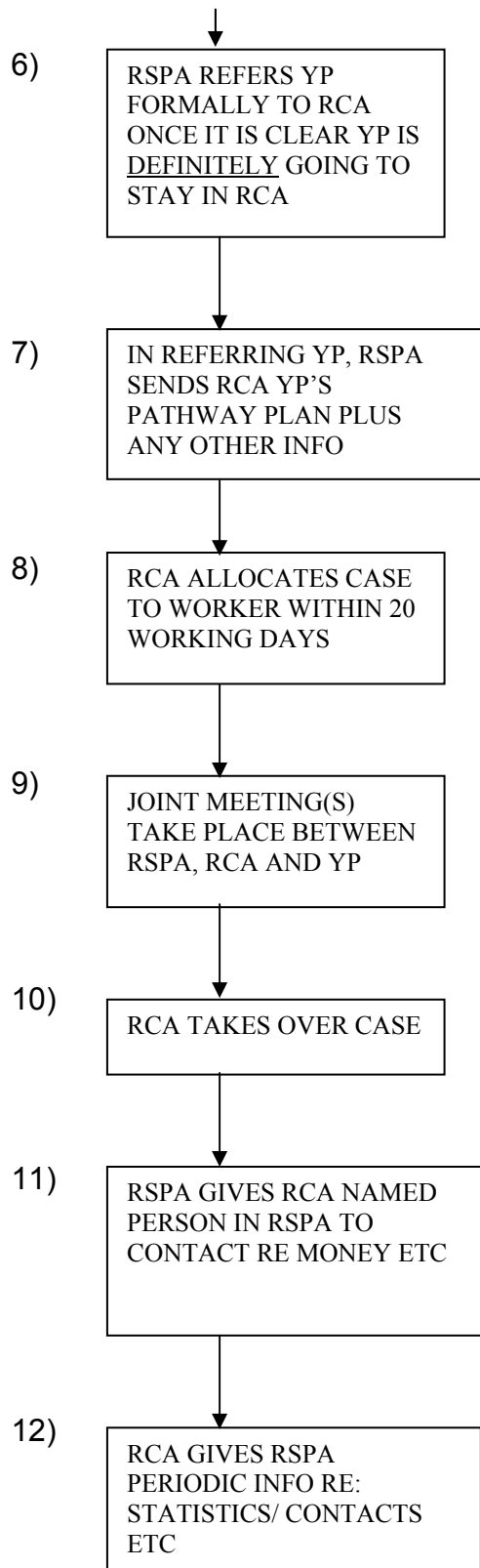
**YOUNG PERSON IS ABOUT TO GO TO LIVE IN ANOTHER AUTHORITY/
IS ALREADY LIVING IN ANOTHER AUTHORITY
AND WANTS TO REMAIN THERE ON A PLANNED BASIS**

RSPA = RESPONSIBLE AUTHORITY

RCA = RECEIVING AUTHORITY

YP = YOUNG PERSON





ADDENDUM: PATHWAY PLANNING AND REVIEWS

1. Definitions

A Pathway Plan (or its amendment/revision etc) is a written document, setting out what will happen, by who(m) and when, in respect of a young person. [C(S)A 1995, s29(5)]

A Review is the process of looking at a Pathway Plan, to later confirm it, amend it or redraft it. The review process can be by telephone, in supervision, at a meeting etc. [C(S)A 1995, s29(5)].

2. Process

1. The Responsible Authority will always complete the initial Pathway Assessment and Plan. In instances where this is being done with a young person who has already been living in a Receiving Authority (e.g. a young person fostered in another Authority), and therefore the three month criteria under the Transfer of Cases Protocol has already been met, good practice would suggest that the Responsible Authority formulate this Plan in consultation with relevant personnel in the Receiving Authority as they are most likely to know the resources and support available locally.
2. Where a case is being transferred to a Receiving Authority following the three month rule, one of the key documents the Responsible Authority will share with the Receiving Authority is the initial (or revised) Pathway Plan for the young person. As per the protocol, the Responsible Authority will additionally complete/follow whatever referral information/procedure the Receiving Authority require.
3. Once the Receiving Authority takes over working with a young person they will execute, develop and amend the Pathway Plan accordingly in relation to routine matters. However any significant changes, especially financial, must be made in consultation with the Responsible Authority. In an emergency the Receiving Authority will act on the behalf of the Responsible Authority in securing the best option for the young person but will speak to the Responsible Authority at the earliest opportunity. It should be noted that the Responsible Authority must always give to the Receiving Authority a 'named person' with contact details, with whom communication about the young person can take place.

4. When a young person makes an unplanned move, there will usually be an Pathway Plan in place already (if there isn't, the Responsible Authority will need to write one, if need be in consultation with the Receiving Authority). The Receiving Authority will therefore notify the Responsible Authority that the young person has arrived in their area and assuming a proper transfer is to take place, that Plan will be confirmed and/or amended in the joint meeting(s) that should take place between the two Authorities.

Once the Receiving Authority then formally takes over the case, they will take over the day-to-day Pathway Planning, as above, and the Responsible Authority will undertake six monthly reviews.