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## **National Policy for Further Education Bursaries: 2020-21**

### **Advisors Notes**

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## National policy for further education bursaries: 2020-21 – Advisors Notes

### Introduction

1. The Advisors' Notes are set out for users of the National Policy for Further Education Bursaries to provide clarity on the many terms used throughout the separate sections of the guidance.

### Adult dependant

2. This is an adult who is financially dependent on the student **or** for whom they have carer responsibilities. In order to be defined as an adult dependant, the person must be aged 16 or over. The adult dependant will normally be:
  - A family member (e.g. parent, partner or child) who is financially dependent on the student **or** for whom the student has carer responsibilities **or** legal responsibility.
  - A child between the ages of 16 and 24 (inclusive) who is in full-time education.

### Alternative funds

3. These are funds available to the student which are intended to cover similar costs to bursary funding. This will include Education Maintenance Allowance (EMA). **It will also include state benefits which are intended to cover general living costs.** It does not include benefits paid for other purposes. Benefits which count as alternative funding include, but are not limited to: maternity allowance, income support, jobseeker's allowance, employment and support allowance, statutory maternity pay, statutory paternity pay, statutory sick pay and pension credit.

### Assessable parent

4. This is a parent who will be assessed for contributions towards the student's support in situations where the student either:
  - Lives in the parental home – the college should assess the parent who the student lives with. Where the student lives with both their parents, the college should assess the household income.

**OR**

  - Does not live in the parental home – the college should assess the parent with whom the student most recently resided. Where the student lived with both parents, the college should assess the household income.

5. The definition of parent includes step-parents, partners of parents and guardians. If the assessable parent lives alone then this status should be supported by documentary evidence such as a Council Tax bill.

### **Bursary**

6. A bursary is a financial award given to a student at the discretion of a college to help maintain that student in their education beyond their statutory school leaving date. An award can include allowances that cover a student's maintenance, travel and study costs. Colleges can also use bursary funds to cover costs incurred by a student due to an adult dependant and / or additional support needs for learning. The bursary fund is cash-limited. Students who are eligible for support from this fund are not automatically entitled to this support.

### **Care-Experienced / Care Leavers / Looked after Children & Young People**

#### **Summary**

7. The terms Care-Experienced, Care Leaver and Looked After have been used over time to describe various types of care experience in different ways. These different categories are defined as follows:
  - I. Care-experienced student: A student who has been looked after by a local authority at any time during their life. This includes adoptive children who were previously looked after.
  - II. Care leaver: A young person who was looked after on or after their 16th birthday and who is aged under 26.
  - III. Looked after child: A child or young person currently looked after in a formal arrangement with a local authority, typically, but not always, involving compulsory supervision arrangements following a children's hearing. Children can be looked after while remaining in the family home with social work support, or in a kinship, foster or residential care placement.
8. More information on the different care experience eligibility categories for the Further Education CE Bursary can be found in Annex B at the end of this document. Some further information on care experience can be found on the following website:
  - [Centre for Excellence for Children's Care and Protection.](#)

### ***Legislative context***

9. The Further Education CE Bursary is available to care-experienced students who were subject to formal care interventions and were 'looked after' or are 'care leavers'. Colleges should rely on the legislation below when assessing care-experienced students on their status:

- [Social Work \(Scotland\) Act 1968](#)
  - p. 44(1)(a) - supervision order (no condition of residence) commonly known as a 'home supervision' order
  - p. 44(1)(b) - supervision order (with a condition of residence) – commonly referred to as being in care, for example living in foster care, children's home or residential school
- [Children \(Scotland\) Act 1995](#)
  - p. 11 - Parental Rights
  - p. 25 - provision of accommodation known as 'voluntary alternative care'
  - p. 70 - 'supervision requirement'
- [Adoption and Children \(Scotland\) Act 2007](#)
  - p. 80 - Permanence Order
- [Children's Hearing \(Scotland\) Act 2011](#)
  - p. 83 - Compulsory Supervision Order
- [Children and Young People \(Scotland\) Act 2014](#)
  - Part 10 (Aftercare)
  - Part 11 (Continuing Care)

10. However, this list of legislation may not be exhaustive and colleges should use their discretion to request evidence of care-experienced status, such as a letter from social work services. When requesting evidence, colleges should be aware of the distinct issues for some older care leavers and should assess on a case by case basis to take into account individual circumstances. There are a range of agencies and professionals who may be able to provide the College with evidence of someone's care experience.

### ***Children (Scotland) Act 1995***

11. Under the provision of the [Children \(Scotland\) Act 1995](#) "Looked After Children" are defined as those in the care of their local authority and will come into one of the following categories.

- Looked after at home: Where the child (or young person) has been through the Children's hearing system and is subject to a Supervision Requirement

(regular contact with social services) with no condition of residence. The child then continues to live in their regular place of residence (in most cases, the family home).

- Looked after away from home: Where the child or young person has either: been through the Children's Hearings system and is subject to a Supervision Requirement with a condition of residence; is subject to an order made or authorisation or warrant; is being provided with accommodation under a voluntary agreement; or is placed by a local authority which has made a permanence order. In these cases the child is cared for away from their normal place of residence, by foster, or kinship carers, prospective adopters, in residential care homes, residential schools, or secure units.
- Kinship order: In addition to the above, students who are subject to a Kinship Order may also be categorised as care-experienced by the college.

### ***The Children and Young People (Scotland) Act 2014***

12. This Act introduces provisions that ensure better permanence planning for Looked After Children by: amending the [Children \(Scotland\) Act 1995](#) to ensure that those leaving care aged 16 will become eligible for aftercare immediately; extending the entitlement to aftercare support available to care leavers from those up to the age of 21 to those aged up to 26; all young people in care born after April 1999 to have the entitlement to stay in foster, kinship or residential care placement until the age of 21 ([Children and Young People \(Scotland\) Act 2014](#), Parts 10 and 11).

### ***Legislation & Categories of care which are not eligible for Care-Experienced Bursary assessment***

13. Legislation:

- [Adult Support & Protection \(Scotland\) Act 2007](#).
- [Adults with Incapacity \(Scotland\) Act 2000 \(Guardianship\)](#).

14. Categories of Care:

- Students in informal care – not covered by the relevant Act and should be confirmed with Local Authorities Social Work Services.

### ***Informal Care Arrangements***

15. Students in informal (i.e. non-compulsory) care arrangements are not "Looked After" under the meaning of the relevant legislation and do not (unless they have been "Looked After" at another time) qualify for funding as care-experienced. This can be true even where there was a specific statutory basis for the local authority having intervened to protect that student's welfare.

However, the college may take the decision that students in informal care arrangements are self-supporting and allocate the self-supporting maintenance rate of funding on this basis.

16. Non-compulsory arrangements are made on a voluntary basis (i.e. although the local authority may have a duty to make arrangements, the acceptance of the local authority's offer by the student is voluntary). Therefore a student will not have been considered to be "looked after" for the purposes of the relevant legislation, even in situations where social work services have been involved.

***Examples of Non-Compulsory – Informal Arrangements include:***

- Informal Kinship Care: Where someone lives or has lived with extended family. These people may be, or have been, subject to a court order under "Section 11" of the [Children's \(Scotland\) Act 1995](#) or living in a completely private arrangement with no local authority involvement at all.
- Young people who have been the subject of action by a local authority under "Section 22" of the [Children's \(Scotland\) Act 1995](#) (whose involvement with social work services is on a voluntary basis).
- Young people who are or have been in respite care.
- Young people referred to a local authority under "Section 68(5)" of the [Children's Hearings \(Scotland\) Act 2011](#) as this is a Voluntary Supervision Order.
- Young people who have been on a child protection register only.
- Young people who are involved with other social work services such as:
  - School based intervention services.
  - Young person's support teams.
  - Crisis intervention teams.

***Other Relevant Information***

17. In Scotland the Legal Definition of Looked After Child includes children subject to a compulsory supervision order who may still be living at home, but there is no category of "looked after child" in other parts of the UK which would extend to children who remain at home.

**Carer**

18. The [Carers \(Scotland\) Act 2016](#) defines carers as those who provide unpaid support to family and friends who could not manage without their help. A carer and young carer are defined in the Act as follows:
  - Carer: "In this Act 'carer' means an individual who provides or intends to provide care for another individual (the 'cared for person')".



- Young Carer: “In this Act ‘young carer’ means a carer who is under 18 years old”.

19. The organisation VOCAL is an organisation that operates in Edinburgh and Midlothian that provides [useful information for carers](#).

### **Child / Children**

20. For a person to be defined as a child for student support purposes they must be:

- Aged under 16. **OR**
- Aged between 16 and 24 (inclusive) and still in education, unless they can be defined as self-supporting.

21. It should be noted that, students under the age of 25 at the start of their course will still be the responsibility of an adult (as in the ‘**Family**’ section below) unless they are classified as self-supporting (see paragraph 52 for the definition of a self-supporting student).

22. Parents’ obligation to support children undergoing education or training up to the age of 25 is set out in Section 1(5) (b) of the Family Law (Scotland) Act 1985 (this covers both fees and student support).

### **Childcare Fund**

23. This is an element of the Student Support Funds that are allocated to colleges to assist eligible students with their childcare costs. Colleges should refer to the National Policy for FE and HE Childcare Funds published at the same time as this policy.

### **Civil Partnership**

24. The student or partner is in a civil partnership if they are in a relationship formed by two people of the same sex and they have registered their relationship by going through a registration procedure similar to that for civil marriage.

25. Colleges are advised that the onus is on the student to prove that the relationship is an established one. This proof will require documentary evidence such as a marriage or civil partnership certificate, a recent Council Tax bill or an official letter that clearly states the couple’s names and addresses.

### **Course start date**

26. This is the date the course starts rather than the date the student starts the course.

### **Current Income Support levels**

27. This is defined as the age-related weekly personal allowance as stipulated on the [UK Government's website](#).

### **Disability Living Allowance (DLA) mobility**

28. More detailed information on this can be found in the [Child Poverty Action Group in Scotland \(CPAG\) web pages](#).

### **Earned income**

29. This is the gross income deemed to be available to:
- The employed through earnings gained from employment in the form of a salary, wages, commission, bonus, overtime and other payments.
  - The self-employed through income derived from trade, business or profession. This income is shown on either the taxpayer's completed self-assessment forms or the HM Revenue & Customs' (HMRC) calculation of tax due (e.g. form SA302).
  - It also includes any monies paid as compensation for loss of income.

### **Education Maintenance Allowance (EMA)**

30. An EMA provides maintenance support for young people from low income households who undertake post-compulsory, non-advanced courses at school or college. This is a national programme administered in the FE sector by the colleges and SFC. It is not supported by bursary funds, nor is it subject to this bursary policy.
31. This programme affects eligible 15 to 19-year-olds who have passed their statutory school leaving date. For students aged under 18, see students under section 18 of the Calculation of Award segment within the Award Assessment Document.
32. Please refer to the EMA guidance on the SFC website or the EMA Scotland Business Model, EMA Scotland Guidance, the EMA Scotland Good Practice Guide and the [EMA Scotland website](#) for more details.

## Family

33. A family is defined as:

- A married or unmarried couple. **OR**
- A couple in a civil partnership. **OR**
- A married or unmarried couple or a couple in a civil partnership and any child or young person who is:
  - a member of the same household. **AND**
  - the responsibility of either or both member of the couple, as explained in the 'Child' section above. **OR**
- A person who is not a member of a married or unmarried couple or civil partnership (this will usually be a lone parent) and any child or young person who is:
  - a member of the same household. **AND**
  - the responsibility of that person, as explained in the '**Child**' section above.

## Financial tax year

34. The financial tax year runs from 6 April to 5 April in any year. For self-employed persons this is defined as the trading year which ends during the relevant financial tax year.

## Foster Care – Allowances

35. All approved foster carers in Scotland receive a weekly fostering allowance which is designed to cover the cost of caring for a fostered child. This includes spending on food, clothes, toiletries, travel and all other expenses incurred. The Scottish Government does not currently publish a national minimum allowance for foster carers, but has consulted on this as part of their review of allowances in 2018. Fee payments may be made on top of allowances to recognise a foster carer's time, skills and experience.
36. More information about fostering fees can be found at: [Scotland Foster Care Allowances and Fees Survey 2017-18: Summary Report](#) (see section 4 for information on fostering allowances and section 6 for fees).
37. Details of how the elements allowances are used in the student award assessment are covered in Table 1 and Table 2 of the Award Assessment section of the Student Support Guidance.

### **Full-time course: Department for Work and Pension (DWP) definition**

38. The definition of full-time and part-time study used by the Department for Work and Pensions can be found at: [Guidance on claiming Universal Credit if you're a student](#).

### **Full-time course: SFC definition for measuring activity**

39. SFC FES Guidance includes a definition of full-time activity to measure activity counted in the calculation of SFC core funding. This relates to the funding of activity and does not impact on bursary eligibility. See our [FES Guidance for AY 2020-21](#) for more information on the annual commitment for a full-time course.

### **Married / Civil Partnership / established relationship**

40. The student or parent is legally married, is in a legally recognised civil partnership, or is living with a partner in an established relationship at the start date of the course. The onus is on the student to prove they are in an established relationship if they wish to be considered as a self-supporting student on that basis.
41. This proof will require documentary evidence such as a marriage certificate, a civil partnership certificate, a recent Council Tax bill or an official letter that clearly states the couple's names and address.

### **Non-advanced course**

42. This is a course of fundable further education as defined in the [Further and Higher Education \(Scotland\) Act 2005](#) (section 5).

### **Open learning**

43. Where classroom attendance is not planned, students are defined as undertaking open or distance learning and, subject to normal eligibility criteria, may be considered for support from bursary funds (see paragraphs 149 to 152 of the Award Assessment section). In considering attendance for these students, colleges should have regard to evidence of continuing participation and progression on an agreed programme.

### **Parent / parental**

44. A parent is an adult on whom the student is "in practice" dependent. It therefore includes step-parents, partners of parents and guardians.

## **Parental home**

45. This is the home of the assessable parent.

## **Parentally supported students**

46. A student who is aged 18 or over but under 25 years of age on the start date of their course (as set out in the [Family Law Act 1986](#) and subsequent amendments) unless they are classified as self-supporting (see paragraphs 52 to 54 for the definition of a self-supporting student).

## **Partner**

47. For assessment purposes a Partner is a husband, wife, civil partner, or partner (of an established relationship) of a student or their parent.

## **Part-time**

48. For bursary purposes, a part-time student is a student who attends a course which requires a part-time weekly commitment. Courses which do not meet the definition of a full-time course as set out in our [Credit Guidance](#) will be considered as part-time. DWP regards as part-time a student who is not enrolled on a full-time course of study. Part-time students will generally be entitled to access benefits. (See also the definition of **full-time**).
49. Colleges may offer part-time students travel and study costs, additional support needs for learning allowance, and / or a part-time EMA, but not normally bursary maintenance funding. However, part-time students who are unable to access alternative funds may, at the college's discretion, be considered for maintenance from FE Discretionary funds.

## **Permanent home**

50. This is the student's established home. If, at the start of the course, that student was (or is expected to be) living with one or more of their parents, then the parental home is the permanent home. Colleges should seek documentary evidence of an established tenancy or of ownership if the established home of a student under 18 or a parentally-supported student is to be accepted as other than the parental home.

## **Qualification**

51. An award that is recognised or examined by an external awarding body, such as the [Scottish Qualifications Authority \(SQA\)](#) or [City and Guilds](#).

## Self-supporting students

52. Most self-supporting students will be those aged 25 or over on the start date of their course. A student will also be considered self-supporting if they have not yet reached the age of 25 and one or more of the following applies on the start date of their course:

- They are married (see paragraphs 35-36). This does not include situations where the student was married but that marriage broke down prior to the start date of the course.
  - They have no living parents.
  - They are caring for a child dependent on them.
  - They have supported themselves for periods aggregating no less than three years. This includes periods where the individual was either:
    - i In employment and earning equal to or more than current income support levels.
    - ii Supported by a partner with earnings equal to or more than current income support levels.
    - iii On a training programme operated by or on behalf of the Scottish Government, or Skills Development Scotland (SDS).
    - iv In receipt of unemployment benefit / jobseeker's allowance and / or can provide confirmation that they were available or registered for employment or actively seeking employment.
    - v In receipt of employment and support allowance, sickness benefit, invalidity pension, incapacity benefit, maternity allowance, severe disablement allowance, statutory sick pay or statutory maternity pay.
    - vi In receipt of income support.
    - vii In receipt of Universal Credit.
    - viii Living away from the parental home and can provide a copy of a formal rent agreement for the relevant period.
    - ix In receipt of housing benefit for the relevant period.
    - x Caring for a person (adult or child) dependent on them. The college should look for evidence that the student has been the primary carer for an adult.
- OR**
- xi Estranged from their parents and can provide proof of this.

53. The meaning of estrangement in this context means a permanent and irrevocable breakdown in the parental / child relationship. Colleges should note that a breakdown in family communication is not considered to be

estrangement and any award in this situation must take account of parental income.

54. Proof of a permanent and irrevocable breakdown in the parental / child relationship should be established by a letter from a lawyer, a doctor, a head or guidance teacher, or from someone in authority who knows the family well enough to confirm the position. Colleges may wish / need to interview to establish this position. The organisation Stand Alone, although its focus is on the funding system in England and Wales, provides a helpful check list of the information that may be considered to support funding applications from students who are without parental support: [Stand Alone - checklist for supporting information](#)
55. This list is neither exhaustive nor prescriptive and the onus is on the student to provide documentary evidence to prove they have self-supporting status. If there is insufficient evidence to prove this, then the college should consider that student under one of the other categories of support.

### **Statutory school leaving date**

56. As defined in the [Education \(Scotland\) Act 1980](#), the dates at which a person can leave school are pre-determined by when that person becomes 16 years of age. This means that a person is no longer of compulsory school age from:
  - Summer school leaving date (that is the last day in May), if they reach 16 years of age on or after 1 March but before the following 1 October. **OR**
  - Winter school leaving date (that is the first day of the Christmas holidays or 21 December for non-attendees), if they reach 16 years of age on or after 1 October but before the following 1 March.

### **Students under 18**

57. A student who is beyond their statutory school leaving date but under the age of 18 on the start date of their course. See the section on EMAs for more information about maintenance funding for students under the age of 18.
58. Students under 18 may be considered for an away from parental home maintenance element payable from bursaries, subject to meeting the other eligibility criteria. This allowance is offered in addition to any EMA allowance. For further details refer to the Award Assessment Guidance paragraphs 35 to 37.
59. Colleges may also consider students under 18 for study, travel and, where applicable, additional support needs awards if they meet the relevant eligibility

criteria. Subject to the circumstances of the student, this award can also include an allowance for an adult dependant.

### **Unearned income**

60. (See also Tables 1 and 2 of the Award Assessment section) This includes, but is not restricted to:

- Unemployment / social security benefits which provide a replacement income including pensions and allowances but excluding benefits for additional costs such as attendance allowance or child benefit.
- Private or employer's retirement pension.
- Profits from property, boarders, casual fees, etc.
- Interest paid from banks, building societies, dividends, etc.
- Trust funds.
- Working tax credit but not any elements paid in respect of childcare or disability.
- Maintenance paid into the household by someone who does not live in the household. This income is deemed to belong to the person it is paid to, regardless of who it was paid for.
- Child maintenance and child support received. This income belongs to the person it is paid to, regardless of who it was paid for. This income should only be included in a parental or partner's income assessment and should not feature in a student's income assessment.
- Fees paid for fostering childcare. A foster allowance is usually paid in two parts. Part one is an allowance to cover additional costs associated with fostering e.g. additional food etc. and part two is paid to provide the foster family with an income. Part one should be disregarded for all income assessments. Part two should be included as unearned income for the household, but disregarded for the student.

### **Universal Credit**

61. This benefit has been gradually rolled-out across Scotland to replace six other benefits (Working Tax Credit, Child Tax Credit, Employment and Support Allowance, Job Seekers Allowance, Income Support and Housing Benefit). Some students (primarily those who are disabled and / or who have children and / or young people estranged from their parents) may be eligible for student support whilst receiving Universal Credit. (See paragraphs 49 to 54 of the Award Assessment section for further details.)



### **Universal Credit (UC) maintenance award students**

62. A student who is in receipt of Universal Credit (UC) should be assessed for student support in the usual way, and a comparison made as to whether they would be better off on the full bursary award as assessed, or on the £28 per week UC maintenance award rate. (See paragraphs 49 to 54 of the Award Assessment section for further details.)

### **Veteran**

63. A [Veteran](#) is anyone who has served for at least one day in the UK Armed Forces (regular and reserve) or Merchant Mariners who have seen duty on military operations.

## Bursary award letters

1. Students should be issued with clear bursary award letters each year for the following reasons:
  - It allows the student to budget effectively and sets realistic expectations of the level of funding they can expect to receive.
  - It acts as a source of evidence for external agencies, such as Council Tax teams in Local Authorities or Benefits Agencies.
  - The introduction of Universal Credit means that students must be able to provide evidence of the student funding they receive and details the separate funding streams they have been awarded.
  
2. Bursary award letters should contain the following information:

Information to include	Why information is required
<ul style="list-style-type: none"> <li>• Whether the student is studying on a part-time or full-time course.</li> </ul>	<p>Full-time students will be eligible for a Council Tax discount.</p> <p>Part-time students will be eligible to apply for benefits whilst studying.</p>
<ul style="list-style-type: none"> <li>• Overall maintenance allowance awarded*.</li> <li>• EMA awarded.</li> <li>• Travel allowance awarded.</li> <li>• Study cost allowance, stating whether this is awarded to the student or the department.</li> <li>• Dependant allowance awarded.</li> <li>• Additional Support Needs allowance awarded.</li> </ul>	<p>It is important, particularly for students in receipt of benefits such as Universal Credit, that agencies can differentiate between funding that has been allocated for general living costs and funding that is allocated for a specific purpose such as travel expenses or study costs.</p>
<p>A payments schedule (example included overleaf), stating:</p> <ul style="list-style-type: none"> <li>• The overall amount that students can expect to be paid.</li> <li>• How often payments will be made.</li> <li>• The start and end date for payments.</li> </ul>	<p>To allow students to budget effectively.</p> <p>Evidence of the start / end date of study is important when students cease their studies, particularly if they need to claim benefits.</p>

\*This may include details of how the maintenance allowance has been calculated, including reductions applied in respect of student / parental / partner's income.

3. The letter should include the following additional details:

- Student's name, address, ID number and course title.
- Information on how payments will be made, e.g. BACS transfer.
- Confirmation of the student's fee status – whether course fees have been waived or if there is a fee to pay.
- Reminder of the student's obligations under the attendance/engagement and good conduct policies.
- Details of how attendance/engagement will be monitored and how failure to comply with the policy may lead to a reduction in bursary payments. (An example schedule linking payment with attendance is included below.)
- Instructions on moving from benefits to college funding and the procedure for withdrawing from their course.
- A form to be completed by the student indicating acceptance of the award (and the terms and conditions on which it is being awarded) should be attached to the award letter.

4. Letters may be issued in electronic or paper format at the college's discretion.

**Example bursary attendance / payment schedule:**

<b>Attendance from</b>	<b>Attendance to</b>	<b>Amount</b>	<b>Payment date</b>
24/08/2020	28/08/2020	£106.53	28/08/2020
31/08/2020	04/09/2020	£106.53	11/09/2020
07/09/2020	11/09/2020	£106.53	11/09/2020
14/09/2020	18/09/2020	£106.53	25/09/2020
21/09/2020	25/09/2020	£106.53	25/09/2020
<b>Total payments</b>		<b>£532.65</b>	

## **Specific Categories for Care-Experienced Bursary eligibility**

1. Over time, various types of care experience have been described in different ways. Care arrangements and the language used to describe them have changed over the decades. While the term 'care-experienced' is now widely used, it might not be instantly recognisable to adults who experienced care over the decades (some adults recognise the term 'looked after' and others before the mid 90's often refer simply to having been 'in care').
2. Similarly, adults would refer to care settings as children's home, a close support unit, an assessment centre, List D or Borstal. Some older adults might refer to being 'boarded out' rather than fostered. Care could have been provided by a Local Authority (Council), a religious organisation or third sector/charity.
3. When asking older care leavers to specify and to evidence their in-care status a sensitive and understanding approach is essential. It is important to recognise that feelings of stigma, changing care legislation, local authority boundary changes as well as complications about records management regulations and practice (if they were kept at all and for how long) may present barriers.

### **Foster care**

4. Fostering is a temporary arrangement - on either a short or long term basis at any point in their childhood - and many children in foster care will return to their birth family. Some fostered children are eventually adopted, either by their foster carer or by another family.
5. Local authorities can only place children with foster carers who have been approved by an agency registered with the Care Inspectorate. Such agencies include local authorities, voluntary organisations and independent sector providers.

### **Kinship care**

6. Kinship care is when a child is looked after by their extended family or close friends, if they cannot remain with their birth parents. It is different to foster care and adoption. Under the [Looked After Children \(Scotland\) Regulations 2009](#), Part V, paragraph 10(2)(a) and (b) kinship carers are defined as "a person who is related to the child (through blood, marriage or civil partnership) or a person with whom the child has a pre-existing relationship".
7. Kinship care includes children who are looked after and are placed in a formal kinship care arrangement by the local authority. When the child is not Looked After by a local authority the arrangement may be referred to as an 'informal'

kinship care arrangement, which means that they would not be eligible for the CE Bursary (see paragraphs 1 to 3 above).

### **Residential care, residential schools and secure units**

8. Care placements could have been provided by a Local Authority, Council, religious organisation or charity. Other names for residential care could be List D school, a Borstal, a close support unit or a children's home.
9. Residential care homes and schools offer young people (usually of secondary school age) a safe place to live away from their families. Residents live alongside a number of/several other young people in the home, cared for by staff who do not live on site. Most young people who live in a residential establishment will have been assessed as needing to be cared for away from home by the local authority. Young people are placed in residential care on the recommendation of a Children's Hearing Panel, or on an emergency (short-term) basis to guarantee their safety.
10. Secure accommodation is a form of residential care that restricts the freedom of children under the age of 18. It is for the small number of children who may be a significant risk to themselves, or others in the community. Their needs and risks can only be managed in secure care's controlled settings. Secure care aims to provide intensive support and safe boundaries to help these highly vulnerable children re-engage and move forward positively in their communities.

### **Compulsory Supervision Order with no condition of residence (Looked after at home) (Previously known as a Supervision Requirement)**

11. As set in the [Social Work \(Scotland\) Act 1968](#) Part III, paragraph 44(1)(a) where a child or young person is subject, through the Children's Hearing system, to a Compulsory Supervision Order (CSO) with no condition of residence, that child or young person continues to live at their normal residence (often the family home). This is known as being looked after at home and the child will have a social worker while remaining at home.
12. Where this happens, the hearing panel will have decided that the child's welfare and best interests are best assured by living with their parents. Local authorities/Social workers and any other relevant partners must then work closely together as well as with the child and family to achieve to objectives for which the home CSO/supervision order was made.

**Compulsory Supervision Order with a condition of residence (Looked after away from home) (Previously known as a Supervision Requirement)**

13. Where a child (or young person) has either:

- Commonly been referred to as being in care, for example living in foster care, children's home or residential school as set out in [the Social Work \(Scotland\) Act 1968](#), Part III, paragraph 44(1)(b).
- Been through the Children's Hearings system and is subject to a Compulsory Supervision Order with a condition of residence as set out in Part 9, paragraph 83 of the [Children's Hearing \(Scotland\) Act 2011](#).
- Is subject to an order made or authorisation or warrant granted by virtue of Part II, Chapters 2, 3 and/or 4 of the [Children \(Scotland\) Act 1995](#).
- Is being provided with accommodation under Part 2, Chapter 1, paragraph 25 of the [Children \(Scotland\) Act 1995](#) (a voluntary agreement). **OR**
- Is placed by a local authority which has made a permanence order under Part 2, paragraph 80 of the [Adoption and Children \(Scotland\) Act 2007](#). In these cases the child is cared for away from their normal place of residence, by foster or kinship carers, prospective adopters, in residential care homes, residential schools or secure units.

**Permanence order**

14. Permanence orders (legal orders settled by the Court) were introduced by the [Adoption and Children \(Scotland\) Act 2007](#). They can only be applied for by the local authority and are designed to safeguard a child who will not be returning home. A permanence order will remove the child from the children's hearing system and can last until the child reaches the age of 18. It can allow foster carers (and others caring for children) to have some or all of the parental rights and responsibilities needed to make day-to-day decisions affecting the child.