

Frequently Asked Questions for Looked After Children

1. Where can I find more information / guidance on the HMRC requirements?

HMRC has a set of guidance for local authorities/health trusts that can be found at: <http://www.hmrc.gov.uk/ctf/la-info.htm>

- Including general details in relation to looked after children (Scotland, Northern Ireland, England and Wales, and a welsh language version)
- A factsheet for adoption/carers
- Details on the Official Solicitors and Accountant of Court
- A presentation document on looked after children

2. What constitutes a “looked after child”?

For Child Trust Fund purposes, a “looked after child” is defined as follows:

- In England and Wales, “looked after child” has the meaning in section 22(1) of the Children Act 1989 (c), extended to include a child accommodated by a local authority under section 17 of that Act.
- In Northern Ireland, “looked after child” means a child accommodated under Part 4 of the Children (Northern Ireland) Order 1995.
- In Scotland, “looked after and accommodated child” means a child who is:-
 - (a) both looked after, and provided with or placed in accommodation, by a local authority within the meaning of those expressions in Part 2 of the Children (Scotland) Act 1995 (b), or
 - (b) accommodated by a local authority under section 22 of that Act.

3. Are children placed on short break care, and those children who are looked after under an interim care order considered ‘looked after children’ for the purposes of Child Trust Fund?

- Yes. All children that are under the care and supervision of a local authority/health trust must be reported on the monthly return. This includes children placed on short break care, and those children who are looked after under an interim care order.
- Paragraph 3.5 of the guidance for local authorities/health and social services trusts refers, this can be accessed at <http://www.hmrc.gov.uk/ctf/la-info.htm>
- this states:

Specifically, Regulations 33 and 33A of the Child Trust Funds Regulations 2004 set out the local authorities’ responsibilities in respect of looked after children. For the purposes of these Regulations, “looked after children” are as defined by section 22(1) of the Children Act 1989, extended to include children provided with accommodation by a local authority under section 17 of that Act. Any child that qualifies as a looked after child within this definition must be reported. This includes children who are looked after and placed in voluntary homes for adoption, those on short break care and children who are looked after under an interim care order. The Child Trust Funds

Regulations 2004 can be accessed at
<http://www.legislation.hmso.gov.uk/si/si2004/20041450.htm>

4. What does ‘date child first looked after by this local authority/health trust’ actually mean?

- Local authorities/health trusts should give HMRC information about all children, born on or after 1 September 2002, who have become looked after by that local authority/health trust for the first time ever that month.
- HMRC does not need the details of children who have previously been looked after by that local authority/health trust and are returning into care for the second or subsequent time.
- The date that should be recorded on the monthly return is therefore the date that child became looked after in that month.

5. Why do local authorities/health trusts need to complete a separate return per child?

- Separate returns are required by HMRC for their own audit purposes.

6. A child comes into the care of a local authority/health trust the day before the monthly return is due. It is impossible to get the required information in time for that month’s return. What should the local authority/health trust do?

- If it is not possible to collate the information in time for that month’s return, the local authority/health trust should report the child in the next month’s return, but showing the date the child was first looked after in the previous month.

7. A child is looked after for the first time during the month, but leaves the care of the local authority/health trust before that month’s return is due. Should this child be included in the monthly return?

- Yes. Local authorities/health trusts should include on their monthly return all children who came into their care for the first time during that month, no matter how long the child was in care for.
- This information is used to ensure all eligible children do not miss out on receiving a Child Trust Fund account.

8. A looked after child has moved address since the local authority/health trust sent the original details to HMRC about this child. Should the local authority/health trust send the new address to HMRC?

- No. The only change in circumstance that a local authority/health trust should report to HMRC is where a child’s situation changes so that there is no longer anyone, or anyone appropriate, (with regard to the 6 conditions set out in paragraph 5.5 of the guidance for local authorities/health and social services trusts) with parental responsibility for that child.
- The conditions are:

Condition 1: where there is no person, or no person other than the local authority, who has parental responsibility for the child.

Condition 2: where it is part of the care plan for the child that the child will live indefinitely away from the home and will not have face to face contact with any parent having parental responsibility for the child.

Condition 3: where an order has been made under section 34(4) of the Children Act 1989 authorising the local authority to refuse to allow contact between the child and a person with parental responsibility and there is no one else in a position to manage the child's CTF account.

Condition 4: where the Court of Protection has appointed a receiver for a person with parental responsibility or determined that such a person is a 'patient' for the purposes of section 7 of the Mental Health Act, and there is no one else in a position to manage the child's CTF account.

Condition 5: where the child has been lost or abandoned (within the meaning of section 20(1)(b) of the Children Act 1989) and there is no prospect for the foreseeable future of reunification. (This includes children who are given up at birth whose parents want no contact.)

Condition 6: an adoption agency or local authority has been authorised to place the child for adoption under section 19, or by a placement order under section 21, of the Adoption and Children Act 2002

9. How does HMRC define parental responsibility?

- The conditions under which someone has parental responsibility are set out in section 5.1 of the "Guidance to local authorities" and "Guidance to health and social trusts" <http://www.hmrc.gov.uk/ctf/la-info.htm>
- The conditions are:
 - a. the child's mother;
 - b. the child's father, provided
 - he was married to the mother at the child's date of birth or subsequently, or
 - he has (re-)registered the child jointly with the mother, or
 - one of the parents (re-)registered the child on production of a statutory declaration made by the other parent;
 - c. any person who has acquired parental responsibility by virtue of a court order (e.g. a Residence Order or a Special Guardianship Order), a formal parental responsibility agreement, by adopting or by being appointed guardian for the child.

10. A local authority/health trust believe a child should be reported as not having someone appropriate with Parental Responsibility. What are the criteria for this?

- A description of each condition is detailed at paragraph 5.5 of the "Guidance to local authorities" and "Guidance to health and social services trusts" <http://www.hmrc.gov.uk/ctf/la-info.htm>. please refer to question 8 for these conditions

11. The circumstances of a child, who is to be reported as coming in to the local authority/health trust care for the first time that month, do not fit into one of the 6 conditions regarding not having someone appropriate with parental responsibility. However, the child's situation is changing,. How should the local authority/health trust report that child's situation to HMRC?

- For a child to be treated as having no one, or no one appropriate, with parental responsibility, their circumstance must fit with one of the 6 conditions set out in paragraph 5.5 of the guidance <http://www.hmrc.gov.uk/ctf/la-info.htm>, please see question 8 for these conditions. If the circumstances do not fit with one of the 6 conditions, then that should not be reported as such.
- However, if the local authority/health trust thinks that the person who has parental responsibility should not be contacted they can indicate this on the return (see question 12, below)
- Further to this, as soon as the child's circumstances change so that one of these conditions does apply, then the local authority/health trust should report this to HMRC on the next return.

12. When reporting the contact details of the person who has Parental Responsibility, under what circumstances should a local authority/health trust indicate that HMRC should not write to them?

- The local authority should tell HMRC not to write to the person who has parental responsibility when:
 - The birth mother/person with Parental Responsibility has requested that they are not contacted.
 - It is deemed by the local authority/health trust that the birth mother/person with Parental Responsibility should not have contact with the child and therefore must not be informed of details in relation to the Child Trust Fund.

This can be indicated on section 12 of the monthly return
<http://www.hmrc.gov.uk/ctf/ctf15.pdf>

13. Under what circumstances does a local authority/health trust need to inform HMRC of a change of parental responsibility for a child?

- HMRC must be informed when there is no longer someone appropriate with Parental Responsibility. That is, when one of the six conditions set out in paragraph 5.5 of the guidance <http://www.hmrc.gov.uk/ctf/la-info.htm> now applies, please see question 8 for these conditions. The local authority should return this information to HMRC as part of the monthly return.

14. Should foster parents be reported as holding Parental Responsibility for a child in their care?

- No. Under the Children's Act 1989 foster parents do not have parental responsibility status, even though they are caring for the child. Therefore

foster parents **must not** be reported as having parental responsibility for a child on the monthly return.

- While a child is in foster care, generally the birth mother retains parental responsibility status. The person with parental responsibility should be reported to HMRC. But if it is deemed inappropriate that that person should be contacted by HMRC, this information should also be included on the monthly return (see question 12).

15. How can an adoptive parent obtain details of the Child Trust Fund account including the provider for their child?

- Providing the child was born on or after 1 September 2002 and met all of the qualifying conditions, the child will be entitled to/will have a Child Trust Fund account.
- Adoptive parent(s) can only take over the management of a Child Trust Fund account following the conclusion of the adoption process and when they have become the legal parent(s) of the child.
- The adoptive parent(s) can contact the Child Trust Fund Helpline on 0845 302 1470, where they will be asked a series of security questions to ensure they have parental responsibility.
- There is a useful fact sheet on the HMRC website to provide adoptive parent(s) with guidance on the Child Trust Fund, www.hmrc.gov.uk/ctf/la-info.htm

16. Can local authorities/health trusts contribute to a child's Child Trust Fund account?

- Yes. Anyone can contribute to a child's Child Trust Fund account, including local authorities/health trusts, up to the annual limit of £1,200 in total.
- In most circumstances local authorities/health trusts will be able to obtain the necessary details of the Child Trust Fund account from the child, its parents or other person with parental responsibility.
- However, if this is not possible, the local authority/health trust CTF liaison officer can ask HMRC for the details of the account provider. The local authority/health trust will then need to liaise with the account provider to get the precise details necessary to put money into the account.

17. When will local authorities/health trusts be able to send their monthly returns to HMRC by email?

- HMRC understand the sensitive nature of the data on the monthly returns, therefore we can only receive this via a secure link.
- A secure email link between local authorities/health trusts and the HMRC does not yet exist. We are looking at the options available to see if such a link is possible.
- In the meantime, local authorities should continue to send their monthly returns to the HMRC via the secure fax line.