

# Acknowledging the struggle: Policy changes for state care leaving provisions

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## ABSTRACT

Neoliberalism is not kind to vulnerable populations. Care leavers as a vulnerable population have fared particularly poorly under successive governments. Policy and practice have maintained a position for decades in New Zealand where care leavers are responsible entirely for their own lives at the age of seventeen. This article reviews current literature, locally and internationally, in order to identify the needs of care leavers in the New Zealand context. It will question what is working already, what works elsewhere and how we might change the outcomes for these young people who have not chosen this path and yet appear to be punished through the government turning a blind eye.

**KEYWORDS:** Care leaving; transition; rights; obligations

## Preamble

I am a care leaver among other much more pleasant labels: Ngai Tahu, parent, social worker and woman, to name a few. I was in care for three years until I reached the age of seventeen when I was “aged out” of care. I have learnt over time that there are common themes within care leavers’ experiences that cross the multitude of differences we have and tie us together in some shared understandings of our struggles to succeed post-care.

To give context to a care exit, in the three years I was in care I lived in four foster homes, never feeling part of the family, always understanding that the process of being in care now made me somewhat less of a citizen in the eyes of society. When I was in care I was completely cut off from all my extended family. When I turned seventeen, I was ecstatic to be independent and finally separated from what I viewed as an unnatural and oppressive situation where everyone else knew my business and believed they had the right to judge me and share their opinions about my life. I felt I was ready and I was happy to go out flatting,

regardless of the fact that I was in my final year of school and doing well. I moved into a flat with a mattress on the floor, clean sheets, nothing to put my clothes in and an already growing debt to the “Department” for rent and bond in advance. I didn’t think that any of this was abnormal, even when looking at my peers who were still living at home with the comforts of home living. This was probably because I was already accustomed to having my rights breached and not having what others did. It was not until two years later, when my friends started going flatting in their second year of university, that I started to realise that my experiences of independence and flatting were starkly different to my peers and that I had been set up for failure.

I struggled through my last year of school with the unwavering support of teachers and peers, but with significantly falling grades and headed for university, a privilege that most care leavers do not have the option of choosing. By the age of twenty I had dropped out of university and unknowingly accepted my place in care leaver statistics: being on an unemployment benefit, moving multiple times, having no adult role models

in my life and using “recreational drugs” and alcohol as a way of self-medicating and hiding from the reality that life was not as I had planned or wanted it to be. For me, the road to adulthood was long and hard and not one I would ever want for my children, nor for other children. It was a road that was significantly influenced by being a care leaver at age seventeen with minimal resources at my disposal. Twenty five years on and the system has not changed or adjusted to better serve care leavers and unfortunately their stories replicate my own experience.

## Introduction

Neoliberal governmental policy in New Zealand, which began extending market relationships into core areas such as education, health and social services in the 1980s and 1990s, transformed 21<sup>st</sup> century provision in the guise of “modernisation” (van Heugten, 2011). Outcome-driven short term contracting in the social service sector generally and with youth service providers specifically, capped funding in Child, Youth and Family budgets and the underfunding of the education system are examples of the subsequent second phase of neoliberalism, which directly impacted children in care and young people transitioning from care. Garrett (2010) identifies policies and practices in the United Kingdom, such as the outsourcing of group homes and boarding schools for out of home-care children as strategies of neoliberalism, highlighting that the trend toward minimising the state’s responsibilities is not just a New Zealand response.

The Children, Young Persons and Their Families Act, 1989 provided a clear shift from the ideology of responsibility for children and young people sitting with “society” and the “state” to “community” and “family”. The neo-liberal application of the CYPF Act 1989 allowed governments to control resourcing to the state’s children and young persons’ services and the non-government organisational (NGO)

sector, resulting in underfunding over the past twenty five years (Cheyne, O’Brien, & Belgrave, 1997). The enmeshment of neoliberalism through macro, meso and micro spheres in New Zealand moved responsibility away from society and placed it squarely on the individual, in this case the child or young person (Bronfenbrenner, 1994).

A foundation of bias against children and young people in state care is evidenced in lowered expectations toward them from the education system. It also translates into young people feeling blamed for the positions in which they unwillingly find themselves (Expert Panel, 2015; Fitzgerald et al., 2006; Yates, 2001). This prejudice sets the wider scene for society’s lack of concern for this population group, as adolescents and in subsequent adult life. Social workers engaging with children and young people in care are trapped in a system which maintains this position by isolating and discriminating against young people transitioning from care. Social worker enmeshment in this system begs the following question: are they agents for the client (children and young people) or agents for the state?

## Rights and responsibilities

Literature and research has identified children and young people in care as highly vulnerable, often with significant trauma histories prior to entry into care (Expert Panel, 2015). This is particularly significant when the trauma-related needs are unmet through the health and education sector (Expert Panel, 2015; Office of the Children’s Commissioner, 2015). Young people in the care system also rarely have adult advocates in their lives that have the independence, understanding and relationship with the young person to pursue their rights at micro, meso and macro levels (Expert Panel, 2015; Fitzgerald et al., 2006; Mendes, 2012; Office of the Children’s Commissioner, 2015; Yates, 2001).

The United Nations Convention on the Rights of the Child 1989 (UNCROC) outlines specific expectations of the New Zealand

government as to how it values, cares, protects and resources children to ensure that their minimum level of rights are realised (United Nations, 1989). UNCROC's established base rights include the right to be free from discrimination (Article Two) and the expectation that the state will provide for the "best interests" for children and young people up until the age of eighteen (Article Three). Children's rights to identity, culture and religion are specified, as is the state's obligation to provide for health and wellbeing. Further Articles relevant to care leavers include Article 26, the right to social security and Article 27, the right to an adequate living standard.

UNCROC establishes a base expectation that young people leaving care are supported in all areas of their wellbeing: in health, education, housing, culture and identity at least until they reach the age of eighteen. Eighteen is recognised as the minimum standard age worldwide for young people moving from being under the control of parents towards higher levels of public responsibility, such as voting rights and the legal capacity to enter contracts, including student loans. Governments in Australia, Ireland, Canada, the United States (US) and the United Kingdom (UK) have all accepted UNCROC's recommended age where children move from total dependence towards adulthood (Expert Panel, 2015; McDowall, 2008).

### Care exits in New Zealand

Restrictions in funding by successive Governments for care and protection services have produced an erratic implementation of exit from care packages for young people. Regional managers for Child, Youth and Family decide on individual needs in an ad-hoc manner (Atwool, 2010; Office of the Children's Commissioner, 2015). Ward (2000) and Yates (2001) both iterate that the success of the social worker and young person's relationship is the key to the level of support provided through the transition from care phase. The common theme through the

New Zealand studies shows that young people are not treated equally in our care system during transition planning and those that require more support are likely getting less, as they have the most problematic relationships with their social workers through non-conforming behaviour (Yates, 2001; Ward, 2000).

The CYPF Act, 1989 currently only mandates the state to provide services for young people until the age of seventeen, at which time young people are "aged out" of care and are no longer seen as the responsibility of the state. There are planned policy changes imminent, including the raising of the age of care to eighteen and post care financial supports continuing until age twenty subject to requests and approvals. These gains are positive but will not address the inequalities that care leavers face without changes to practice, including the current early discharge of "difficult" young people.

I'm a survivor from the streets – I can look after myself, eh. When it comes to money on the streets I know what to do, eh. If I wanted something like, yeah, drugs and alcohol when I live on the street. I mean, I've always been able to survive on the street, eh. I'd never give up. (Care leaver, Yates, 2001, p. 99)

The New Zealand government has not funded any studies into care leaving, however there are a number of non-government funded studies, particularly some New Zealand qualitative studies of care leavers' experiences and a vast amount of international literature on the subject of care leavers' needs and barriers to success post-care (Fitzgerald et al., 2006; Ward, 2000; Yates, 2001). Yates (2001), Ward (2000) and Fitzgerald et al. (2006) all report issues in New Zealand of homelessness, mental health needs, poverty and unemployment consistent with international research completed by Cashmore and Paxman (1996) and recent qualitative studies by McDowall (2009), Stein (2006), Mendes (2012) and Del Quest, Fullerton, Geenen and Powers (2012).

## The changing transition to adulthood and Government responses

It was widely accepted forty years ago that the normal course of transition to adulthood took the path of completing schooling, finding a job, leaving the family home, entering a relationship and having children (Buchmann & Kriesi, 2011). This is no longer the social norm. Extended transitions involving developmental, social, economic and psychological factors have prolonged education and impacted on the age when young people enter stable employment, relationships and parenthood. This process can now often last up until, and past, the age of twenty five (Buchmann & Kriesi, 2011; McDowall, 2008; Packard, Delgado, Fellmeth, & McCready, 2008; Yates, 2001). Young people are accepted as having more reliance on their parents well into their twenties, resulting in shifting policies in New Zealand from the 1990s. For example, the Student Allowances Regulations, 1998 enforced this expectation in the tertiary education system, with Student Allowances being means tested on parental income up until a student is twenty five years of age.

The Care of Children Act, 2004 affirms that young people are not emancipated from their parents until at least eighteen. Inland Revenue Department (2015) policies extend the right for financial assistance to parents of young people, both in the working for families' policies and child support payments until the age of nineteen. Conflicting policies on the age of financial independence illustrate the confusion around a chronological age at which adulthood is established. International research suggests that young people will return home an average of four times while transitioning towards adulthood (Buchmann & Kriesi, 2011; McDowall, 2009). A cost analysis completed in the US in 2008, estimated that after the age of eighteen a young person will continue to receive financial benefits from their parents to the average value of \$42,000 per child (Packard et al., 2008). The Expert Panel (2015) reports figures

from a 1990/1991 cohort of adults who had been in care, had been neglected as children / young people or had no contact with CYF services. Correction related (prison and justice system) costs associated with care leavers were at least three times that of the neglected cohort who had remained at home and over twenty times that of adults who had no contact with CYF as children (Expert Panel, 2015). These figures expose the real cost in financial terms of not providing adequate resources in care, transition from care and post care.

## International examples of care leaving legislation

Research into care leaving in Western countries over the past twenty years has produced mounting literature documenting the struggles care leavers face (Courtney, Terao, & Bost, 2004; Del Quest et al., 2012; McDowall, 2009; Mendes, 2009; Rutman, Hubberstey, Feduniw, & Brown, 2006; Stein, 2006; Tweddle, 2007; Williams, 2011). It is now recognised that young people face a set of challenges regardless of the country that they reside in. Tweddle (2007) summarises the common themes internationally for care leavers as poor education, unemployment, lower wages, early parenthood, higher rates of incarceration, homelessness or instability in housing, dependence on government social supports, higher rates of mental and physical health issues and substance abuse.

Governments have accepted their responsibilities and followed up with changes to national, state and territorial laws and policies with varying levels of diligence. Norway introduced care leaving provisions into law as early as 1954. England and Wales introduced the Children Leaving Care Act in 2000. Northern Ireland introduced the Children (Leaving Care) Act (Northern Ireland) in 2002 and the US passed the Foster Care Independence Act in 1999 (Barnardos, 2012; Mendes, 2009). Australia has implemented care leaving provisions into law on a state by state basis leading to overall inconsistency, despite

some good examples of care provisions in certain states. In both New South Wales and Victoria non-government agencies provide post-care support services funded until age twenty five (McDowall, 2008; Mendes, 2011). St Luke's Anglicare in Victoria have successfully implemented social inclusion models into transition supports, including services to rebuild connections with families and/or communities (Mendes, 2011). Western Australia automatically registers young people leaving care for housing at age fifteen.

Rogers (2015) and Beauchamp (2014) provide a UK example of policy provisions improving outcomes for youth care leavers with the introduction of a pilot programme in 2008. The 'staying put; 18 plus family placement programme' evidenced an improvement in continued education for care leavers when they were supported to remain in their placement until the age of nineteen. Similar results are recorded in an evaluation study from the US mid-west, with the additional finding that pregnancy was delayed when placements remained secure until the age of nineteen (Beauchamp, 2014). Consequently, law was passed in England and Wales in 2014 allowing young people to remain in foster placements with financial supports until the age of twenty one. Rogers (2015) further discusses the implementation of the Further Education Colleges (FE Colleges) incentive programmes for care leavers provided by the government in the UK. FE College supports can include accommodation, mentoring and financial aid for 365 days of the year. The Australian states of Victoria and South Australia also have provisions for further educational programmes with fee waivers for TAFE courses (New Zealand equivalent to Polytechnic) (Beauchamp, 2014).

### The New Zealand experience

I wagged on class and I got my phone taken off me for a year, a whole fricken year without my phone was like seriously who the hell does that. One class and a

whole year. If I was your kid wouldn't you just take it off me for like a month? (Female, 16, Expert Panel, 2015, p. 44)

Approximately 60% of children and young people in out of home care in New Zealand are Maori. It is likely that this figure may not entirely capture the full percentage of the population due to the reliance on social workers to establish and record ethnicity. A New Zealand response to working with transition planning and post care support requires an understanding of cultural identity and connection in a wider sense, inclusive of hapu and iwi for care leavers of Maori whakapapa. A culturally appropriate response would require more significant research into transition and post care realities for Maori by Maori.

The Modernising Child, Youth and Family Report has identified, from analysis of children born in 1990/1991, that 80% of care leavers did not have NCEA (National Certificate of Educational Achievement) level two, compared to 30% in the general population (Expert Panel, 2015). Abbott (2010) reported that only three of the seven participants in her study of young people placed with the Dingwall Trust care service provider in Auckland achieved above NCEA level one. Even in a relatively successful transition from care programme, such as the Dingwall Trust example, the effects of earlier experiences continue to impact on young people's education. This reflects the reality that young people have experienced multiple schools and a lack of educational supports while in care. Additionally, young people are predominantly in the process of their care exit when they should be completing their NCEA level two study.

I just think they need to help these people that are going out into the world, help them get ready to go out into the world. .... Help them find a job. ... Help to, you know, budget, I don't know. .... Just maybe do something, yeah, keep helping for the next couple of years. ... If they can't cope, then they can go back, you

know, as their guardian. ... That's what I mean by I'm not anybody's number 1 person. ... You know, like, yeah, who the hell do I go to if I get stuck? ... And that's such a big thing for a teenager to manage. I'm on my own now in many ways. ... Yeah, they just, yeah. They also need to, yeah, they really need to prepare people, instead of just packing their bags, "See you later. Today's your last day. Bye." And you're just standing there with your bags, thinking, "Oh, where do I go? What now?" (Care Leaver, Fitzgerald et al., 2006, p.44).

Fitzgerald et al. (2006) emphasise the lack of transition planning and post-care support, stressing the importance of strong social connections, having a voice and choices, while also identifying that the strict rules while in care do not allow the development of the skills required for transition to adulthood. Ward (2000) further establishes that not one study participant was fully prepared and capable of managing "independently" at their time of exit. Issues around maintaining education, mental wellness and housing were identified in Yates (2000) qualitative study where the participants were aged out of care either at the end of year 12 or early in year 13, disrupting their education with lasting negative effects.

Abbott (2010) found that transitioning from care (TFC) programmes such as the one offered at Dingwall Trust supported young people in three ways; materially, practically and emotionally. It is asserted that the transitions would not have been successful without the supports provided. Improving emotional capacity for care leavers includes supporting the building of relationships with significant people and problem solving with them when hurdles are encountered. For care leavers who have experienced multiple breakdowns in relationships with family, placements, schools, social workers and peers it is extremely important to support positive relationships as essential basic needs.

## Independence or Interdependence

The concept of independence for young people is an unrealistic expectation, yet this is exactly what the current New Zealand legislation and policies state. The current Child, Youth and Family Policy around transition to adulthood is named aptly as 'Towards Independence' (Child, Youth and Family, 2014). This Policy outlines the process by which Child Youth and Family social workers can (not should) support young people in exiting state care. To function in society, it is necessary for young people to have the capacity not only to ask for help and support when required, but also to provide this to others. This concept is one of reciprocity or interdependence where we accept that a healthy society works together as a community (Cheyne et al., 1997; Expert Panel, 2015).

The most significant and repeated theme for transitioning care leavers is the necessity to be connected in their communities and with significant adults. Young people themselves have repeatedly expressed the need for this to occur, emphasising that connections and access to adults that can be trusted is often what is missing or what has made the difference (Fitzgerald et al., 2006; McDowall, 2009; Mendes, 2009; Office of the Provincial Advocate for Children and Youth, 2011; Rutman et al., 2006; Stein, 2006; Yates, 2001). Taking into account young people's experiences of leaving care internationally and locally and society's expectations of participation and connection, a more realistic and useful goal is not independence but interdependence, where young people leaving care have the protection afforded by trusting relationships and are followed up by adults that care and can provide support (Expert Panel, 2015; McDowall, 2009; Mendes, 2011).

## Financial Dependence

The Towards Independence Policy statement on the CYF Practice Centre web page underlines some of the struggles that

a seventeen year old faces due to having age-restricted legal rights. This includes being unable to sign a lease agreement (Residential Tenancies Act, 1986), and also the generalised statement around care leavers not having enough money to make ends meet, even when working, due to the low youth pay rates available to them (The Minimum Wage Act, 1983). The Government are well aware of the implications of a seventeen year old being “independent”, stating on their website that financial “assistance offered to young people may not be enough for them to move from care to independence. Young people said that, even if working full-time, the youth rate does not allow much money to meet the basic financial requirements of rent, food, power, travel, clothing, etc” (Child, Youth and Family, 2014). The acknowledgment that these young people will likely enter a poverty cycle is not followed up with any viable solutions that will curb the trajectory of poverty and risk.

Stein (2006) discusses the social exclusion of care leavers in terms of the “material disadvantage and marginalisation” which impacts on every aspect of their lives post-care (p.423). Researchers from New Zealand, Australia, USA, UK and Canada all identify that care leavers feature disproportionately in homelessness figures across the western world due, in part, to lack of adequate finances (Courtney, Piliavin, Grogan-Kaylor, & Nesmith, 2001; Fitzgerald et al., 2006; McDowall, 2009; Mendes, 2009; Packard et al., 2008; Rogers, 2015; Office of the Children’s Commissioner, 2015; Stein, 2006; Yates, 2007). Packard et al. (2008) found that 40% of residents in homeless shelters in the USA in their study cohort were care leavers. Young people themselves have continuously stated in qualitative studies that finances and, by association, housing is the biggest challenge for them post-care and emphasised that current provisions do not adequately support them to safely acquire stable and safe accommodation (Courtney et al., 2001; Fitzgerald et al., 2006; Mendes, 2009; Yates, 2001).

In Articles 26 and 27, UNCROC outlines that the state should provide a reasonable level of financial stability for young people. Maslow’s hierarchy of need determines that until our basic physiological and safety needs are met a person cannot achieve higher levels of belonging, esteem and the self-actualisation which enables potential to be achieved (Simons, Irwin, & Drinnien, 1987). When care leavers are not provided with the necessities required for physiological wellness, such as adequate and appropriate housing and enough income to ensure a sufficient standard of living, it follows naturally that they will not have safety or esteem leading to reactionary choices and poor outcomes. Currently when young people exit care, they have few options available to them and are required to apply for the youth benefit of \$178.00 per week which carries with it a multitude of restrictions and regulations premised on the young person being on the benefit by choice (Work and Income, 2015). The deficit based obligations that youth care leavers are required to meet include an incentive payment system for both education and budgeting, which penalises youth by taking away their money and freedom to budget over subjective incidents such as being disruptive in class (Work and Income, 2015).

At present the state provides no financial supports to care leavers on an ongoing basis. Care leavers are hugely disadvantaged through this lack of financial assistance, even when there has been some reconciliation with family post-care exit. If care leavers do have connections back to family it is still highly unlikely that they will be provided with financial supports as evidence suggests that a very high proportion of care leavers’ natural families are living on benefits and in poverty (Expert Panel, 2015; Stein, 2006). Poverty of choices and resources then becomes the reality for care leavers.

## Access to services and supports post care

In parts of Australia and the UK care exit planning has become a significant part of ensuring the risks are minimised for young people (McDowall, 2009; Stein, 2006). Planning is compulsory and begins at least two years before the exit date and continues post-care exit. The Towards Independence policy document (Child, Youth and Family, 2014) follows these international examples by recommending that exit planning should start when a young person is fifteen. Unlike New South Wales, Victoria and the UK, New Zealand has no state funded, nationwide independent services available that can support this process. It is left to the already overworked social workers to fulfil this optional role and there is a complete severing of interactions and support upon exit (Expert Panel, 2015; McDowall, 2008; Stein, 2006). Dingwall Trust and Ka Awatea in Auckland provide good 'care to independence' services to the young people they work with. This is a positive example of pre-exit planning and post-care supports providing positive outcomes (Dingwall Trust, 2015).

Access to services and supports for care leavers has been identified internationally as needing to include multiple housing options due to the high levels of homelessness post-care (McDowall, 2008; Rutman et al., 2006; Stein & Dumaret, 2011). The US and Australia have provided examples of graduated living solutions where care leavers can live independently in supported flatting situations as they learn the required skills for managing a house and expenses (Biehal, Clayden, Stein, & Wade, 1995; McDowall, 2008; Rogers, 2015). The Dingwall Trust has replicated these alternative living situations with success in providing security of accommodation for care leavers and therefore improving other aspects of their lives such as continued education and training (Dingwall Trust, 2015).

Planning for transition provides for the complex needs of care leavers including

skills development, health and wellbeing checks and connecting youth to services that will support them post-care such as financial literacy education. It should also include building a number of safe and enduring adult relationships that will withstand the test of time and the inevitable care leavers' mistakes as they transition to adulthood (McDowall, 2008; Mendes, 2009; Rutman et al., 2006; Office of the Children's Commissioner, 2015; Tweddle, 2006). Putting aside a care leaver's basic requirements for housing and finances and looking at their emotional and health requirements, international research provides evidence that this vulnerable population has patterns of high physical and mental health need, stemming from their complex circumstances of trauma, neglect, grief and deprivation (Mendes, 2012). Access under the current New Zealand care leaving provisions (or lack of) to health services is via the universal system of self-service that the general population utilises.

## Recommendations

Tackling the multiple risks encountered by care leavers in New Zealand requires some further qualitative research to firstly establish what the care leaver population looks like in New Zealand. Research particularly needs to address care leaving needs from a Maori perspective given that the majority of care leavers in New Zealand are Maori.

Care leavers' experiences with Child, Youth and Family raise questions about the appropriateness of the state providing care leaving provisions. Outsourcing to the NGO sector, including iwi providers, should be the goal. This should be 100% government funded and supported. Young people's autonomy and agency should be at the forefront of any future planning which should include policy and practice changes being made in consultation with care leavers themselves.



The recommended age at which transition planning begins (being fifteen) should be reviewed with a view that transition planning includes conversations about education and setting goals to ensure care leavers are supported to achieve NCEA level 2. Post care assistance with tertiary study and associated financial and emotional supports should be available to all care leavers but will only be relevant to the majority when issues with education through primary and secondary school are adequately addressed.

Legislation and policy should establish a basic standard of living and guaranteed human rights. This should be established in a separate piece of legislation in line with the international trend towards recognising the importance of securing safety, belonging and support provisions for care leavers (Expert Panel, 2015; McDowall, 2008; Mendes, 2009; Stein, 2006). Legislation should provide a list of “must do’s” for the Department mandated with the responsibility of protecting and caring for children in care. Collaboration between state funded agencies and government services, including housing, health, education and social development should provide easier access to support and specific funding to enable care leavers’ transitions. This would include priority access to health and education services. No young person should be put out on the streets under the age of twenty five and legislation should ensure that the young people most at risk are supported fully rather than discharged early.

## Conclusion

Neoliberal reforms from the mid-1980s and the subsequent second phase of neoliberalism have led to a government approach to care leaver transition and post care supports that is completely lacking in adequate provision for future development. The basis for the withdrawal of state obligations is seated in a false belief in practice, policy and society that children in care are on a level playing field with

children and young people still within a family. Radical changes are required to address the inequalities for care leavers. Solutions will require the state to financially support research and the provision of resources and services to assist care leavers. Providing for all the identified needs and barriers to full community participation for care leavers requires a whole of government and society approach. It requires an acknowledgement that care leavers should have positive discrimination practices applied, including entitlement to specific and targeted funding which enables choice, participation, empowerment and ideally the fostering of attitudes which challenge and dispel discriminatory judgements and expectations of failure for this population group within New Zealand society.

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