

Joint Protocol for the Assessment of Homeless 16 and 17 Year Olds

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1. Purpose

The purpose of the protocol is to ensure that partners continue to work together to provide a consistent and coordinated response to 16 and 17 year old young people who present as homeless and in need of accommodation and accommodation support services. The protocol includes an integrated pathway for referral to, assessment for and planning for access to accommodation and accommodation support services to streamline and make the most effective use of existing resources.

This protocol reflects the government guidance 'Provision of Accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation' issued in 2010 following the House of Lords 2009 judgment in the case of G v LB Southwark. The guidance clarifies that the local authority's duty under Section 20 of the Children Act 1989 takes precedence over its duties under the relevant Housing Act legislation in providing for children (young people) in need who require accommodation.

This protocol sets out the roles and responsibilities of Children's Social Care, Housing and partner agencies.

The primary objective of the protocol is to promote and safeguard the well-being of the young person and to prevent homelessness; returning young people to their family wherever possible. If a return home is not possible, the objective is to find the most suitable accommodation for the young person and to support them to remain in and move on from their accommodation when appropriate.

2. Aims

The protocol aims to build upon this good practice and will:

- Facilitate greater coordination between services;
- Improve how young people are referred to and access accommodation and support services;
- Achieve greater consistency with support plans and access to services;
- Clarify where young people are accommodated while awaiting Children's Social Care assessment;

- Standardise processes and procedures that are then easier to follow;
- Enable young people to make informed decisions by giving them information about their entitlements and offering them an independent advocate;
- Use available resources to best effect;
- Identify gaps in appropriate accommodation;
- Consider how best to commission housing provision and support services.

3. Principles Underpinning the Protocol

- The safety and welfare of the young person is paramount;
- Unless there is clear evidence to the contrary, the starting point will be that all children and young people are best off with their immediate families. Every effort should be made therefore to mediate between young people and their families to negotiate a return home;
- Where young people are unable or unwilling to return to their immediate families, young people should be supported to explore wider family members and community options where their needs can be met;
- Young people will be kept informed of progress and decisions made and are engaged in their assessment and plans;
- Agencies will work together to assess and meet the needs of these young people and share information effectively;
- Young people should not be sent between different departments or from one office to another without prior direct communication between staff;
- A homeless or potentially homeless young person will have a Lead Professional, who will be supported as appropriate by a multi-agency team of professionals;
- Where a young person is assessed as homeless and is unable to return home, Children's Social Care will be the lead agency and the primary legislation will be the Children Act 1989;

4. Legislation and Guidance

The Children Act 2004

Emphasises the need for agencies to work together to improve outcomes for children. Section 10 establishes a duty on Local Authorities to make arrangements to promote cooperation between agencies and a duty on key partners to take part in those arrangements. This joint protocol plays an important part in formalising such a process.

The Children Act 1989

The Children Act 1989 Section 20 places a duty on Local Authorities to provide accommodation for young people in need under the following criteria:

Section 20 (1) states that -

“Every Local Authority shall provide accommodation for any “child in need” within their area who appears to them to require accommodation as a result of:-

- a. There being no person who has Parental Responsibility for him;
- b. His being lost or abandoned;
- c. The person who has been caring for him being prevented (whether or not permanently and for whatever reason) from providing him with suitable accommodation or care”

Section 20 (3) continues:

“Every Local Authority shall provide accommodation for any child in need in their area who has reached the age of 16 and whose welfare that Authority considers is likely to be seriously prejudiced if they do not provide accommodation”.

Section 17 (10) defines a “child in need” as follows:

- a. He is unlikely to achieve and maintain, or to have the opportunity of achieving and maintaining, a reasonable standard of health or development without the provision for him of services by a Local Authority under his part;
- b. His health or development is likely to be significantly impaired, or further impaired without the provision for him of such services; or
- c. He is disabled.

R(CG)v London Borough of Southwark/ House of Lords ruling.

This ruling confirmed that Local Authorities should presume that any young, homeless child should be provided with accommodation under the Children Act 1989, Section 20 unless the Local Authority can satisfy itself that the young person is not a Child in Need under the terms of the Act. The ruling clarified that Children’s Services could not discharge their duties to 16/17 year olds in need by referring them to the Housing Services for accommodation and reiterated that the Children Act has primacy over the Housing Act in providing for Children in Need.

All 16 and 17 year olds who present to a Local Authority as homeless or at risk of homelessness are therefore entitled to an assessment to identify whether they are a “child in need” under Section 17 and therefore the Local Authority has a specific duty to provide accommodation under Section 20. In determining whether a young person’s welfare is likely to be seriously prejudiced, consideration will be given to whether the young person’s health or development has been significantly impaired or she/he has suffered or is likely to suffer Significant Harm and whether by virtue of this or any disability, the young person is not able to cope and manage in the community, notwithstanding the provision of services to her/him.

All 16/17 year old young people who present in need of Housing will require a Single Assessment to determine whether or not they are Children in Need and therefore should be referred to Family Support and Child Protection for accommodation under Section 20 of the Children Act.

In relation to unaccompanied asylum seeking children, where a child has no parent or guardian in this country, the presumption should be that he/she would fall within the scope of Section 20 and become looked after.

Section 27 (10) of the Children Act allows Local Authorities to request the help of various agencies and people to assist in discharging these duties. Those identified in the Act who could be requested to help are:

- a. Any Local Authority; (Children Services);
- b. Any Local Education Authority; (Children Services);
- c. Any Housing Authority;
- d. Any Health Authority;
- e. Any person authorised by the Secretary of State for the purpose of this section.

Any Authority requested to help is required to comply with the request provided that request is compatible with its own statutory or other duties and obligations and does not “unduly prejudice” the discharge of any of its own functions.

Whether a Section 27 request is accepted or not, the statutory duty for the provision of appropriate advice and assistance in order to safeguard and promote the welfare of the young person remains with the Children and Young Peoples Service.

The Housing Act 1996 (amended by the Housing Act 2004)

Part 7 of the Housing Act 1996 places a duty on Local Authorities to provide assistance to certain categories of homeless people. The homelessness (priority need for accommodation) (England) Order 2002, included new categories of homeless persons who have a priority need for accommodation and this includes a person aged 16 or 17 who is not a “relevant child” or a “child in need” to whom the local authority owes a duty under Section 20 of the Children’s Act 1989.

Children (Leaving Care) Act 2000:

Eligible Child

An “eligible child” is a young person aged 16 or 17 who has been looked after for at least 13 weeks since the age of 14 and who is still looked after.

Relevant Child

A “relevant child” is a child aged 16 or 17 who has been looked after (in care) by a Local Authority for at least 13 weeks since the age of 14 and has been looked after at some time while 16 or 17, and who is not currently being looked after.

Former Relevant Child

A “former relevant child” is a young person aged 18-21 years who has been either an eligible or relevant child.

5. Accommodation Pathway and Process for 16 -17 Year Olds

Stage 1 - Initial Contact

A young person may make contact with a number of different agencies or settings e.g:

- Children's Social Care;
- Housing;
- Other statutory or voluntary agencies;
- Self-referral to accommodation providers.

Stage 2 - Initial Interview

An initial interview with the young person will be conducted. This will be a structured interview that will begin the information gathering and assessment process to determine whether a duty is owed to the young person, whether the young person has the capacity to access/will be able to cope in sustainable accommodation provided to agreed criteria, and/or whether the young person can be supported to return home or live with responsible adults in their wider family and friends network. Areas to be covered in the interview will include:

- The current situation - i.e. why is the young person presenting as homeless?
- Background history, family composition, accommodation history, etc. Whether previously/currently known to Children's Social Care, other agencies, CAF in place?
- Support networks - what family members are there e.g. extended family members, friends that can offer support?
- Confirmation of the age of the young person;
- Resilience and protective factors;
- Vulnerability - are there any immediate concerns re the vulnerability of the young person e.g. learning disabilities, mental health issues, child protection/safeguarding concerns?
- Risks to themselves, others and to staff;

- Information and advice about their entitlements to ensure they are in a position to make informed choices;
- Advocacy needs, including the offer of an independent advocate, to ensure they are in a position to make informed choices;
- Communication needs e.g. interpreter services;
- The young person's views - what is the young person saying about the need for accommodation?
- Views of those with Parental Responsibility (PR) - what are those with PR saying? Can the young person return home? NB there will be some circumstances where obtaining these views will put the young person at risk.

The initial interview process will involve an interview with the young person, but will also include making contact with parent/carers (where to do so would not put the young person at risk e.g. forced marriage, trafficking, sexual abuse) and other agencies as necessary to gather relevant information.

The young person will be given advice about their entitlements to ensure they are able to make informed choices.

Stage 3 - Initial Decision

The information gathered during the initial interview should be analysed and evaluated to inform the initial decision and future action.

Young person presents as / is referred as homeless and can return home or stay with family/friends

- The assessment confirms the young person can return home or stay with family/friends;
- The assessment informs a package of support to facilitate and maintain return home or to family/friends.

Where a young person is not able to return home, wider family and friends should be explored as options for the young person. Where this is available, this should be facilitated and supported.

In the majority of circumstances, facilitating a placement of the young person with family and friends will fall outside private fostering regulations as they do not apply to young people over 16 years of age. Private fostering regulations do apply, however, if the young person is disabled. If the young person is disabled, consideration will therefore need to be given as to whether their level of disability means that this is a private fostering arrangement.

Support into appropriate and sustainable accommodation

- The assessment confirms that the young person, although not able to return home or to family and friends, is resourceful and that their needs can be met with support;
- Referral for support services for the young person made;

Support into appropriate emergency accommodation (including homelessness application where appropriate)

Where a young person is unable to return home, cannot access alternative sustainable accommodation, there is nowhere safe for them to stay that night, and therefore the only identifiable option is the provision of suitable emergency accommodation whilst further assessments are made,

Stage 4 – Assessment of Homeless 16/17 year olds

Children's Social Care will address the following key questions to confirm the information provided:

- Is the age of the applicant confirmed as 16 -17 years?
- Is the applicant a young person in need?
- Is the young person within the Local Authority's area?
- Does the young person appear to the Local Authority to require accommodation?
- Is the need for accommodation the result of one of the criterion in Section 20 (1) (a) - (c) of the Children Act 1989 being met?
 - a. There being no person who has Parental Responsibility for the young person;
 - b. The young person is lost or abandoned;
 - c. The person who has been caring for the young person being prevented (whether permanently and for whatever reason) from providing the young person with suitable accommodation or care.
- Is the need for accommodation the result of s20 (3), which requires the local authority to provide accommodation for any young person in need within their area who has reached the age of 16 and whose welfare the authority consider is likely to be seriously prejudiced if they do not provide him with accommodation;
- What are the young person's wishes and feelings regarding the provision of accommodation?
- What consideration (having regard to age and understanding) is to be given to those wishes and feelings?
- Does any person with PR who is willing to provide accommodation for that young person object to the LA's intervention?
- Even if there is an objection does the young person agree to being accommodated?

Stage 5 - Decision after Provision of Immediate / Emergency Accommodation / Assessment by Children's Social Care

If the screening confirms that a return home is not immediately viable and emergency accommodation is required, Children's Social Care will secure immediate accommodation for the

young person to prevent street homelessness. This will mean that the young person will become Looked After under Section 20 of the Children Act 1989 whilst their needs for continuing accommodation and support are assessed. Children's Social Care will be responsible for the funding and immediate provision of the accommodation, although they can request assistance from Homelessness Services in identifying appropriate accommodation. Consideration also needs to be given to how to support the young person to obtain food, clothing and other essentials.

Children's Social Care will undertake an Assessment of the young person's needs. The Assessment will be informed by all the available information.

Stage 6 - Comprehensive Assessment and Provision of Sustainable Accommodation

Whilst immediate accommodation is provided, young people will be offered a comprehensive joint assessment of need to identify the young person's needs and to inform a plan for the young person. Children's Social Care will lead the joint assessment, with contributions from partner agencies and homelessness services. The assessment will be undertaken concurrently with the statutory homelessness assessment undertaken by the housing authority. The assessments will give appropriate consideration to the young person's informed choice and their level of resilience and resourcefulness to manage in the accommodation provided alongside their vulnerability. The assessments will be completed within the required timescales to ensure that the young person can be moved on from emergency accommodation when it is safe to do so.

During the assessments, social workers will continue to explore the possibility of the young person returning to family, wider family or to friends, and where this is a safe option, will positively support this. Professionals will draw on a range of interventions including mediation and Family Group Conferencing.

The assessments will inform the decision as to whether the young person continues to meet the criteria for section 20 and whether the young person is a young person in need under Section 17 of the Children Act 1989, and whether the young person is owed a duty under the Housing Act 1996 or is intentionally homeless. These decisions will inform the pathways and support planning in Stage 7.

It is essential that the young person is fully consulted about and understands the implications of being accommodated by Children's Social Care and becoming looked after. Professionals conducting the assessment must provide realistic and full information about the support that the young person can expect as a looked after child and, subsequently as a care leaver. Children's Social Care and Homelessness Services should also ensure that the young person is informed of their entitlements and receives accurate information about what assistance may be available to them, including from housing services under Part 7 of the 1996 Act, if they do not become looked after, and how any entitlement for assistance will be determined. In particular, the possible risk of becoming homeless intentionally in the future, and the implications of this for further assistance with accommodation, should be made clear to the young person.

It is recommended that, in order to make an informed choice, the young person is offered an independent advocate.

Stage 7 - Pathways

Following the assessment and decision at Stage 6, there are 4 exit pathways for young people.

1. Return home (with or without support) or stay with family/friends;
2. Support into appropriate sustainable accommodation (including homelessness application where appropriate);
3. Support into appropriate sustainable accommodation (Section 17 Children Act 1989);
4. Support into appropriate sustainable accommodation - young person becomes Looked After (Section 20 Children Act 1989).

Whichever pathway is decided, it is critical that an effective plan to support the young person is agreed and implemented, and that the young person is fully informed about the decisions made and why.

National guidance issued in April 2010 on the Provision of Accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation states that the powers of local authorities to provide accommodation under Section 17 of the Children Act 1989 cannot be used to substitute for their duty to provide accommodation under Section 20(1) of the Children Act 1989 to homeless 16 and 17 year olds who are assessed as children in need. Children's Social Care does not, therefore, have the option of choosing under which provision they should provide accommodation for homeless 16 and 17 year olds. Section 20 involves an evaluative judgment on some matters but not discretion.