

REPORT REFERENCE: **15.0**
CHILDREN AND YOUNG PEOPLE'S
STRATEGIC PARTNERSHIP

REPORT

DATE OF MEETING:	18 May 2011
SUBJECT:	Joint Protocol for 16-17 year olds presenting as homeless
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IS THE REPORT EXEMPT?	No
IS THE REPORT CONFIDENTIAL?	N/A

1. **Purpose: For information**

To update the CYPSP on the introduction of a Joint Protocol for responding to 16 & 17 year olds presenting as homeless.

2. **Background/Context**

The House of Lords Judgment on the case R(G) v London Borough of Southwark has given legal clarification concerning the way 16/17 year olds who are in need of housing and support are managed.

The judgement confirmed that local authorities should presume that any lone, homeless child should be provided with accommodation under section 20 of the Children Act 1989, unless (based on an initial screening assessment) the child is not (in the local authority's judgment), a "child in need".

In nearly all cases the impact of a child being homeless, and their parents being unable to provide suitable accommodation or care, will result in such significant challenges to the child's welfare, that he or she will be a child in need. Where the criteria for Section 20 have been met, children's services do not have discretion to use Section 17 powers to provide accommodation. The effect of providing accommodation under Section 20 is that the child becomes "looked after" within the meaning of Section 22 of the Act.

Some homeless 16 and 17 year olds will still have priority need under the homelessness legislation. They will include those whose need for accommodation did not fall within the circumstances specified in Section 20(1) of the 1989 Act - for

example, because they had been living independently for some time prior to their homelessness; and those whose need for accommodation fell within Section 20 but who did not want to be accommodated under Section 20. Such young people must be judged to be competent to make such a decision and to have had the benefit of advice about the consequences of making such a decision.

The duties of local authority children's services to accommodate children in need can not be circumvented by referring the child to a housing authority. The latter's duties under the homelessness legislation (Part 7 of the Housing Act 1996) provide a safety net for the very small number of children who will not meet the criteria for accommodation under Section 20 of the 1989 Act. The Judgement made it clear that the Children Act duties take priority.

It is important that there continues to be a close partnership between children's services and housing authorities, which supports local authority responsibilities under the Children Act for meeting the needs of children in their area.

Baroness Hale referred to Section 27 of the Children Act 1989, which empowers local children's services authorities to ask other authorities, including any local housing authority, for "help in the exercise of any of their functions" under Part III of the 1989 Act.

The authority that receives such a request must provide help if it is compatible with its own statutory duties, and does not unduly prejudice the discharge of its own functions. Baroness Hale also made it clear that this does not mean that a children's services authority can avoid its responsibilities by "passing the buck" to any other authority; it means the children's services authority can ask another authority to use its powers to support the discharge of its own duties

The ruling is not at odds with a general process of identification and assessment of need, including a referral to Children's Services when (and only when) the need is considered to be at a level consistent with a response required under the Children Act 1989. Children's Services and Housing colleagues have been working on a revised protocol to strengthen the guidance based on this assumption, defining more tightly the assessment and prevention activities that need to be undertaken before the young person is referred to Children's Services. This would be the case with any arising need, which should be dealt with using the Common Assessment Framework (CAF) and our Team around the Child arrangements, to prevent escalation.

In the first instance, the responsibility for establishing whether a young person is indeed a lone and homeless child primarily rests with housing authorities. Ideally, this should be CAF compliant; but at the very least there should be clear evidence confirming that the child is lone and homeless. There must also be evidence of prevention activity, undertaken to resolve the homelessness. Only when these activities have been exhausted can there be any accurate determination that the child is, and will continue to be, lone and homeless; and therefore in need, and requiring Section 20 accommodation.

Housing authorities will arrange and pay for the accommodation of the child prior to the referral, ensuring that at the point Children's Services is engaged, the young person is not "roofless". The Housing authority will initially fund accommodation for seven days.

Once a young person is accommodated, the focus for Children's Services is on returning him or her back home/re-directing from care. A reconfigured Family Support Service is to be implemented which will intensively engage children accommodated through Section 20. Family Group Conferences are also available and must be used to support the rehabilitation of young people within their families.

A protocol has been prepared and agreed with Children's Services, the Strategic Housing Board, Homelessness Strategy Group, and the 7 Housing Authorities within Lincolnshire which takes the above guidance into account (Appendix 1) and we have also considered the Shelter Children's Legal Service briefing (Appendix 2) and believe that the draft protocol is within the spirit and intention of the Southwark ruling.

3. Recommendation

The CYPSP note the implementation of the Joint Protocol.

4. Supporting Papers

Appendix A - Joint CLG and DCFS Guidance

Appendix B - Shelter Briefing

Appendix C - Joint Protocol on the Provision of Accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation