



department for  
**children, schools and families**



**Provision of Accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation**

**Guidance to children's services authorities and local housing authorities about their duties under Part 3 of the Children Act 1989 and Part 7 of the Housing Act 1996 to secure or provide accommodation for homeless 16 and 17 year old young people.**

**Issued: April 2010**

## **Provision of Accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation**

For the purposes of this guidance the term ‘homeless’ should be taken to mean “homeless and/or requiring accommodation” The term “young people” should be taken to mean 16 and 17 year old children.

### **1. Introduction**

- 1.1 In recent years a number of judgments have been handed down by the House of Lords in cases concerning the interrelationship between the duty under section 20 of the *Children Act 1989* (“the 1989 Act”) and duties under Part 7 of the *Housing Act 1996* (“the 1996 Act”) in the case of young people aged 16 or 17 who require accommodation. The most recent of these has been *R (G) v Southwark [2009] UKHL 26*, but these have also included *R (M) v Hammersmith and Fulham [2008] UKHL 14*. These judgments have restated and clarified the established legal position that the duty under section 20 of the 1989 Act takes precedence over the duties in the 1996 Act in providing for children in need who require accommodation, and that the specific duty owed under section 20 of the 1989 Act takes precedence over the general duty owed to children in need and their families under section 17 of the 1989 Act.
- 1.2 This guidance does not address the wider responsibilities of local authority children’s services and their partners to identify and support families where children and young people may be at risk of negative outcomes, including homelessness in the future, by delivering integrated and targeted services in their area. This guidance is solely concerned with the functions of children’s services and housing services when young people seek help from, or are referred to, local authorities because of homelessness.
- 1.3 This guidance is issued jointly by the Secretary of State for Children, Schools and Families and the Secretary of State for Communities and Local Government under section 7 of the *Local Authority Social Services 1970* and section 182 of the *Housing Act 1996*. Section 7 of the 1970 Act requires local authorities in exercising their social services functions to act under the general guidance of the Secretary of State; unless there are exceptional reasons in individual cases authorities are expected to comply with this guidance. Section 182 of the 1996 Act requires housing authorities and social services authorities, in the exercise of their functions relating to homelessness and the prevention of homelessness, to have regard to such guidance as may from time to time be given by the Secretary of State.
- 1.4 This guidance replaces the paragraphs in Circular LAC (2003) 13 *Guidance on Accommodating Children in Need and the Families*, issued by the Department of Health, which refer to how lone 16 and 17 year olds should be accommodated under the Children Act 1989 Act.

#### *Structure of the guidance*

- 1.5 **Part 2** of this guidance addresses children’s services’ and housing services’ initial responses to 16 and 17 year olds seeking help because of homelessness. **Part 3** gives guidance on the provision of suitable accommodation for 16 and 17 year olds. In

many cases, both children's services and housing services will need to have contact with, and provide services for, homeless 16 and 17 year olds. **Part 4** gives guidance on the provision of suitable accommodation for 16 and 17 year olds who are not owed a duty under section 20 or who refuse section 20 accommodation. **Part 5** provides guidance on joint working between children's and housing services at strategic and operational level.

## **2. Responding to 16 and 17 year old young people seeking help because of homelessness.**

### *Supporting families to stay together and re-unification*

- 2.1. It is in the best interests of most young people aged 16 or 17 to live in the family home, or, where this is not safe or appropriate, with responsible adults in their wider family and friends network. Local authority responses to 16 and 17 year olds seeking help because of homelessness should explicitly recognise this and work pro-actively with young people and their families to identify and resolve the issues which have led to the homelessness crisis. This could involve family support such as family mediation or family group conferences.
- 2.2. It may be possible for children's services to prevent a young person from having to leave home at all, or it may take much longer to work through significant family tensions and problems while the young person is accommodated by the local authority. It is therefore important that services are designed to enable this family focus to begin on day one and continue throughout the processes of assessment and, where necessary, the provision of accommodation.
- 2.3. This preventative work should be undertaken alongside the statutory assessment processes outlined in this guidance and should not delay assessment or the delivery of statutory services to 16 and 17 year olds who may be homeless or at risk of homelessness.
- 2.4. If key issues affecting the young person's welfare and/or the sustainability of their living at home remain unresolved, post-reunification support should be provided to the family after the young person returns home.

### *16 and 17 year olds who may require accommodation with children and/or partners*

- 2.5. By the age of 16 or 17 most young people are forming relationships and a few may themselves have children. Assessment, support and accommodation services should take into account young peoples' relationships as well as any dependent children and, where appropriate, support them to build a positive family life.
- 2.6. The needs of 16 and 17 year olds' for accommodation should be assessed in the context of their relationship with any "partner". In some cases it may be appropriate for a 16 or 17 year old to be accommodated in a situation where they can live with their partner. This should not prevent local authorities from accommodating a 16 or 17 year old under section 20 where the young person is owed a duty under this section. Specific consideration should be given to placement options for young people accommodated under section 20 whilst living with a partner. For example, placement in an alternative arrangement such as a self contained property with visiting support

may be appropriate. It will also be important to have contingency plans in place in case relationships break down.

- 2.7 Where young parents are provided with accommodation by children's services and become looked after, it does not follow that their child will also be looked after. This is an issue for an entirely separate assessment based on the needs of the infant.

#### *Accessing services*

- 2.8 16 and 17 year olds who seek assistance from a local authority because they are homeless or at risk of homelessness may either seek help initially from the local housing authority or from the children's services authority. Within unitary authorities, the initial approach for help may be made to either housing services or children's services. 16 and 17 year olds may also seek help from multi-disciplinary teams including co-located children's and housing services staff where local authorities have established such arrangements (these arrangements may be made in both unitary and two tier areas and will be referred to as **integrated services** for the purposes of this guidance).

#### *Initial approaches to housing services*

- 2.9 Where the initial approach or referral for housing assistance is made to housing services, the authority should treat the approach/referral as an application for assistance under Part 7 of the 1996 Act. The authority will therefore need to decide whether there is reason to believe the young person may be homeless or likely to become homeless within 28 days (section 184 of the 1996 Act) and, if so, the authority will need to make inquiries to determine whether any duty is owed under Part 7 of the 1996 Act.
- 2.10 If there is reason to believe the young person may be eligible for assistance, may be homeless and may be 16 or 17 years of age, the authority will have an immediate duty to secure interim accommodation (section 188(1) of the 1996 Act) pending a decision whether any substantive duty is owed under Part 7. Such accommodation must be suitable for a 16 & 17 year old and, in considering suitability, authorities should bear in mind that 16 and 17 year olds who are homeless and estranged from their family will be particularly vulnerable and in need of support. The Secretary of State considers that Bed and Breakfast accommodation is unsuitable for 16 and 17 year olds.
- 2.11 If the young person may be homeless or may be likely to become homeless within 28 days, housing services should make an immediate referral to children's services for an assessment. This applies to all 16 and 17 year old applicants without exception, for example including those who are pregnant and/or a parent. The question whether any substantive duty is owed under Part 7 of the 1996 Act will depend in part on the outcome of the assessment by children's services, and whether any duty is owed under section 20 of the 1989 Act. Housing services should continue to secure accommodation under section 188 (1) until they have notified the young person whether any substantive duty is owed under Part 7 of the 1996 Act. Children's services should undertake and complete an initial assessment as soon as possible and no later than the ten days set out in the Framework for the Assessment of Children in Need and their Families. (See paragraphs 2.36- 2.40). Where children's services have

accepted that they have a duty under section 20 duty to provide accommodation and the 16 or 17 year old has accepted the accommodation, the young person will not be homeless and no further duty will be owed under Part 7 of the 1996 Act.

*Young people from one district who seek assistance from housing services in another district*

- 2.12 Housing services are reminded that they must consider all applications for accommodation or assistance in obtaining accommodation. Authorities cannot refuse to assist an applicant on the basis that the applicant may not (or does not) have a local connection with the district. Authorities can refer an applicant to another authority only if they have accepted that the applicant is eligible for assistance, unintentionally homeless and in priority need but consider that the applicant does not have a local connection with their district and does have one elsewhere in Great Britain. For further guidance about local connection and referrals, authorities should refer to Chapter 18 of the *Homelessness Code of Guidance for Local Authorities*.<sup>1</sup>

*Initial approaches and referrals to integrated services*

- 2.13 Integrated services can assist in the delivery of a seamless, child-centred response to the needs of 16 and 17 year olds who are homeless or threatened with homelessness. Given that the 1989 Act takes precedence over the 1996 Act, and given their responsibilities for children in need in their areas, children's services should be the lead agency with regard to assessing and meeting the needs of 16 and 17 year olds who seek help because of homelessness. The Secretary of State for Children, Schools and Families and the Secretary of State for Communities and Local Government consider that an initial approach or referral to integrated services should be treated in the same way as an initial approach or referral to children's services (see below).
- 2.14 The involvement of housing staff in this process can have a number of benefits, for example:
- improvement of joint working through better understanding and communication between children's services and housing services;
  - giving 16 and 17 year olds, and their families, access to information directly from both services regarding the support and, if necessary, accommodation options that may be available both now and in the future;
  - removal of the need for a referral to housing services for a fresh assessment under the homelessness legislation if the young person is not accommodated under section 20, e.g., following the initial assessment and consideration of their wishes and feelings in the context of their needs.

*Approaches and referrals to children's services.*

- 2.15 Where a 16 or 17 year old seeks help from local authority children's services or is referred to children's services by some other person or agency (including housing services) as appearing to be homeless or at risk of homelessness, or they are an

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<sup>1</sup> <http://www.communities.gov.uk/publications/housing/homelessnesscode>

unaccompanied asylum seeker without a parent or guardian with responsibility for their care, then children's services must assess whether the young person is a child in need, and determine whether any duty is owed under section 20 of the 1989 Act to provide the young person with accommodation.

2.16 Where a 16 or 17 year old seeks help or is referred, and it appears he or she has nowhere safe to stay that night, then children's services must secure suitable emergency accommodation for them. This will mean that the young person will become looked after (under section 20 (1)) whilst their needs, including their need for continuing accommodation and support, are further assessed. Bed and breakfast accommodation is not considered suitable for 16 and 17 year olds even on an emergency accommodation basis. Where the young person is accommodated under section 20 they will not be eligible for welfare benefits, including housing benefit<sup>2</sup> and children's services will have a duty to maintain them (including meeting the cost of accommodation).

2.17 Section 17 of the 1989 Act sets out the responsibilities of local authorities to provide services for children in need and their families. It is the general duty of every local authority -

(a) to safeguard and promote the welfare of children within their area who are in need; and

(b) so far as is consistent with that duty, to promote the upbringing of such children by their families

by providing a range and level of services appropriate to those children's needs.

2.18 Section 17(10) of the 1989 Act defines a child as being in need if –

a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a local authority under this 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,

The duties described in section 17 apply to all children in need in the area of the local authority.

A child is any person under the age of 18. (see section 105(1) of the 1989 Act.)

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<sup>2</sup> There are exceptions for lone parents and for disabled young people who may have established entitlement to non-means tested benefits.

2.19 Section 20(1) requires 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 having been abandoned; or

(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.

2.20 In addition, even if the criteria in section 20(1) do not apply, section 20(3) requires that:

Every local authority shall provide accommodation for any child in need within their area who has reached the age of sixteen and whose welfare the authority consider is likely to be seriously prejudiced if they do not provide him with accommodation.

2.21 In addition, section 20 (4), provides that:

a local authority may provide accommodation for any child within their area (even though a person who has parental responsibility for him is able to provide him with accommodation) if they consider that to do so would safeguard or promote the child's welfare.

2.22 Local authority duties for accommodating young people under this section are not simply a matter for local policy. The duty is engaged whenever any authority has determined that the young person is in fact in need and requires accommodation as a result of one of the factors set out in section 20(1)(a) to (c) or in section 20(3).

2.23 There can be no doubt that where a young person requires accommodation as a result of one of the factors set out in section 20(1)(a) to (c) or section 20(3) then that young person will be in need and must be provided with accommodation. As a result of being accommodated the young person will become looked after and the local authority will owe them the duties that are owed to all looked after children, set out in sections 22 and 23 and once they cease to be looked after, the duties that are owed to care leavers under that Act.

2.24 Identifying the needs of the young person and the best response to these needs will be the function of each assessment. The critical factors to be taken into account in assessing whether a young person is in need under the 1989 Act are what will happen to the young person's health and development without services being provided or secured by children's services and the likely effect of the provision of services will have on the young person's health and development. Where a young person is excluded from home, is sofa surfing among friends, or is sleeping in a car, it is extremely likely that they will be a child in need. Similarly, where a 16 and 17 year old teenage parent is homeless they are also likely to have significant needs and require accommodation and support as a child in need. Determining who is in need and the extent of any needs requires professional judgment by children's services

staff, informed by consultation with other professionals familiar with the circumstances of the individual young person and their family. The young person's and their family's wishes and feelings must be taken into account (see paragraphs 2.44 – 2.53 below).

- 2.25 At the point when the need for a children's services assessment is identified, it will be necessary for the professional undertaking the assessment to agree an assessment plan with the young person and with their family. (For a 16 or 17 year old who may be homeless, this will be the point at which they first seek help from, or are referred to, children's services). This assessment plan will make clear from the outset who is doing what, within what timescales, and what the possible outcomes of the assessment might be. These could range from the young person becoming, or continuing to be (if children's services has provided or secured emergency accommodation) accommodated by children's services to no services being provided.
- 2.26 Young people seeking help because of actual or threatened homelessness are likely to have a range of concurrent needs<sup>3</sup> and these should be assessed fully in accordance with the assessment process set out in the *Framework for the Assessment of Children in Need and their Families*. The most crucial issue to be determined through the assessment process will be whether the young person is actually homeless and therefore requires accommodation. However, assessment will need to take into account every dimension of the young person's needs and, as well as the need for accommodation, it will be necessary to assess what further support the young person needs. A homeless young person not participating in education or training would in the first place need suitable accommodation but this should be arranged in conjunction with plans to re-engage them with education or training.
- 2.27 The majority of young people seeking help because of homelessness cite the breakdown of relationships with parents or other carers as the reason for their homelessness. The assessment will need to determine whether or not the young person can return home, with support for them and their family if necessary, or whether this is not a possible or safe option.

#### *Undertaking assessments*

- 2.28 An initial assessment should be carried out involving interviewing the young person and family members and making enquiries with other agencies. Where a young person seeks help because of homelessness it is good practice for an assessment of the young person's needs to be conducted jointly by both children's and housing services. Alternatively, assessment and referral processes should be underpinned by appropriate information-sharing so that young people do not have to repeat their stories each time and navigate between offices which may be some way apart. The lead agency will be children's services, given their responsibilities for children in need in their areas.
- 2.29 It will be essential to establish very close contact and rapport with the young person throughout the assessment process, in order to make sure their wishes and feelings are

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<sup>3</sup> Statutory Homelessness in England: The Experiences of Homeless Families and 16 and 17 year olds' – CLG 2008  
<http://www.communities.gov.uk/publications/housing/experienceoffamilies>



properly understood and to take their views into account (see paragraphs under 2.44 below). Similarly, it will also be important to maintain contact with the adults who retain parental responsibility for the young person and with any other family members in the young person's network. It will generally be necessary to visit the family home or other accommodation where the young person has been living as part of the assessment process.

- 2.30 The assessment will need to establish whether the factors set out in sections 20(1), 20(3) or 20(4) of the 1989 Act are applicable to the young person's circumstances.
- 2.31 Careful account will need to be taken of the factors which will promote the welfare of the young person, including the significance of the young person's relationship with their parents, or other adults in their life responsible for their care up until the point that they seek help, or are referred, as homeless. The assessment should identify the young person's and their family's, strengths as well as any difficulties and should build on strengths to attempt to develop sustainable solutions so that the young person's needs, including the need for suitable accommodation, are met for the future.
- 2.32 At the conclusion of the initial assessment, staff should have reached a provisional assessment of the young person's needs and the services that they are likely to require to support them in making a positive transition into adulthood. The Annex to this guidance sets out the issues that should generally be considered during the assessment process. The *Framework for the Assessment of Children in Need and their Families* (2000)<sup>4</sup> provides comprehensive information about the factors that the assessment must take into account.
- 2.33 Where a young person seeks help because of homelessness, the assessment must necessarily reach a decision as to whether or not the young person is a child in need and requires accommodation as a result of one of the scenarios set out in section 20(1)(a) to (c) or section 20(3).
- 2.34 In some cases, it may not be necessary for the young person to be accommodated by children's services because the young person's needs can be met by providing other services - for example, support to enable the young person to return to the care of their family or other responsible adults in the young person's network. If children's services conclude that the young person does not require accommodation for this reason, they should consider whether they should provide services under section 17 of the 1989 Act, which could include financial support under section 17(6)) to sustain any plan for the young person to live with members of their family. Children's services will also need to put in place a strategy to try to avoid the young person being threatened with homelessness in the future. Where the young person is a child in need, children's services should use their powers under section 17 of the 1989 Act to provide these services.
- 2.35 However, if the young person requires accommodation, then this must be provided by children's services and the young person concerned will become or continue to be (if children's services has provided or secured emergency accommodation) looked after under section 20 of the 1989 Act, with the authority having the responsibilities

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<sup>4</sup> <http://www.archive.official-documents.co.uk/document/doh/facn/fw-00.htm>

towards them set out in sections 22 and 23 and once they cease to be looked after, the duties that are owed to care leavers under that Act.<sup>5</sup> The child becomes looked after at the point that the local authority determines the young person needs accommodation (including emergency accommodation) under section 20.

### *Timescales*

- 2.36 *The Framework for Assessment of Children in Need and their Families* sets out the timescales that should, except in exceptional circumstances involving difficulty in obtaining relevant information or children with very complex needs, be followed when assessing whether a not a child is in need and whether, as a result, services should be provided.
- 2.37 Within one working day a decision must be taken about whether to carry out an initial assessment . Where a young person refers themselves, or is referred by housing services or another agency as appearing to be homeless, children’s services should proceed with an assessment unless they are able to determine very quickly that the young person is not homeless and does not require support.
- 2.38 A decision to gather more information constitutes an initial assessment. This should be completed within ten working days.
- 2.39 Where housing services have been providing interim accommodation pending assessment of the young person, once the initial assessment by children services is complete and it has been determined whether the young person will be accommodated by children’s services under section 20, children’s services should notify housing services immediately. Where accommodation is to be provided under section 20 arrangements for the move to a new placement should be made as quickly as possible.
- 2.40 An assessment is not complete until children’s services have decided what action is necessary to respond to the young person’s needs and this has been communicated to the young person, the adults responsible for their care, housing services and any other relevant agencies.

### *16 and 17 year olds from one local authority area who seek assistance from children’s services in another local authority area*

- 2.41 Where a 16 or 17 year old who was living in one local authority area and moves to another local authority area and seeks assistance from children’s services in that local authority, the duty to assess falls on the authority from which they seek assistance. The authority cannot refuse to consider the young person’s immediate needs and expect them to return to the authority in the area presumed to be their “home” district.
- 2.42 An initial interview, perhaps combined with enquiries in the area where the young person came from, should be sufficient to establish their connection with the area where they have sought help and their reasons for seeking help there rather than in their “home” district. These enquiries may be able to establish whether it may be

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<sup>5</sup> A looked after child who is aged 16 or 17 and has been looked after for a total of at least 13 weeks (which began after they reached the age of 14 and ends after they reach the age of 16) is an “eligible child”, and will be entitled to care leaving support under the 1989 Act.. A 16 or 17 year old who was an eligible child but has ceased to be looked after, is a “relevant child”, and will also be entitled to support as a care leaver

possible it for the young person to return to the area where they may be presumed to have a stronger local connection. For example, it might be possible for the authority where the young person seeks help to negotiate with their “home” authority to take over the assessment of the young person’s needs, so that the young person is assessed in a familiar setting close to their family and friends.

- 2.43 It is essential that disputes about responsibility for the young person in the medium term should not get in the way of the authority that received the young person’s request for assistance responding to the young person’s immediate needs. The young person concerned must not be passed from pillar to post while the authorities determine where he or she comes from.

*Young person’s wishes and feelings*

- 2.44 Section 20(6) of the Children Act requires that:

Before providing accommodation under this section, a local authority shall, so far as is reasonably practicable and consistent with the child’s welfare;

(a) ascertain the child’s wishes and feelings regarding the provision of accommodation; and

(b) give due consideration (having regard to his age and understanding) to such wishes and feelings of the child as they have been able to ascertain.

- 2.45 This will include assessing their emotional and behavioral development and their capacity to make use of wider resources to manage independent living.
- 2.46 However, where a young person says they do not wish to be accommodated, a local authority should reach the conclusion that the young person’s wishes are decisive only as part of an overall judgment of their assessed welfare needs and the type and location of accommodation that will meet those needs.
- 2.47 The approach to assessment must be child-centred. It will be very important that children’s services staff responsible for the assessment are able to communicate the assessment plan to the young person so that he or she is provided with information about the enquiries that need to be made and the timescales involved. A key aspect of the assessment will involve reaching an understanding about how the young person views their needs.
- 2.48 It will be essential that the young person is fully consulted about and understands the implications of being accommodated by children’s services and becoming looked after. The staff 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 services should also ensure that the young person 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 under Part 7 will be determined. In particular, the possible risk of becoming homeless intentionally in future, and the implications of this for further assistance with accommodation, should be made clear to the young person. This information should be provided in a ‘child friendly’ format

at the start of the assessment process and be available for the young person to take away for full consideration and to help them seek advice.

- 2.49 Where there is any doubt about a 16 or 17 year old's capacity to judge what may be in his or her best interests, e.g. whether they should become looked after or seek alternative assistance, there will need to be further discussion involving children's services, housing services, the young person concerned and their family, to reach agreement on the way forward.
- 2.50 Young people should have access to independent advocacy and support to assist them in weighing up the advantages and disadvantages and coming to a balanced decision.<sup>6</sup>
- 2.51 Some 16 and 17 year olds may decide that they do not wish to be provided with accommodation by children's services, for example, because they do not wish to be supported as a looked after child. However, in these circumstances, it is important that children's services are clear that the young person's decision is properly informed, and has been reached after careful consideration of all the relevant information.
- 2.52 The fact that a young person may be reluctant to engage with the assessment process outlined above is not in itself a basis for assuming that the young person has rejected any children's services' intervention to provide them with accommodation. Lack of co-operation is no reason for the local authority not to attempt to carry out its duties under the 1989 Act. In these circumstances, the assessment will need to involve careful recording of how the authority has attempted to engage with the young person to assess their needs in order to determine and provide appropriate services. Ultimately, however, it is not possible to force services on young people who persistently continue to refuse them.
- 2.53 Where a 16 or 17 year old child in need wishes to refuse accommodation offered under section 20 of the 1989 Act, children's services must be satisfied that the young person :
- has been provided with all relevant information
  - is competent to make such a decision

*Provision of accommodation under section 17 of the 1989 Act*

- 2.54 Children's services authorities have powers to accommodate children under section 17(6) of the 1989 Act. A young person provided with accommodation under this section would not be looked after and the local authority would not have the corresponding duties set out at in sections 22, 23 and 24 of the 1989 Act. However, the provision of accommodation under section 17 will almost always concern children needing to be accommodated with their families.
- 2.55 The powers of local authorities to provide accommodation under section 17 cannot be used to substitute for their duty to provide accommodation under section 20(1) of the 1989 Act to homeless 16 and 17 year olds who are assessed as being children in need

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<sup>6</sup> Children and young people who have received services under the 1989 Act are able to be supported to make complaints and representation with the help of an independent advocate. Children's services should provide information about access to advocacy services when they explain the assessment process to 16 and 17 year olds seeking help because of homelessness.

following the process described in Part 2, above. Children's services do not 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 a discretion.

### **3. Provision of suitable supported accommodation under section 20 of the 1989 Act by children's services**

- 3.1. Children's services must only provide children with supported accommodation which is suitable and of high quality. A range of different types of accommodation may provide suitable accommodation for 16 and 17 year olds who cannot live with their families, carers or guardians. These include foster care, children's homes, supported lodgings, foyers, properties with visiting support tailored to the young person's needs and other types of supported accommodation. In order for services to work well it is important that children's services work closely with housing services to ensure that a range of suitable supported accommodation placements are available for young people in their area, whether or not they are looked after children. Bed and breakfast accommodation is not suitable for 16 and 17 year olds. For teenage parents it is particularly important that they are provided with accommodation which gives them the holistic support they require to meet their individual needs and improve their outcomes. This should include support around parenting and independent living skills; their health and well-being; access to education and training; and their readiness for future independent living.
- 3.2. The choice of placement for any individual young person will be informed by the assessment of their needs.
- 3.3. Section 23(2) of the 1989 Act sets out the range of placement options in which a young person who is looked after by the local authority may be accommodated. These will include placements in foster care or in children's homes.
- 3.4. Some 16 and 17 year olds who require accommodation may be reluctant to take up these kinds of accommodation options and the assessment of their emotional and behavioural development will indicate that they do not require the level or kind of supervision and support that foster or children's home care provides.
- 3.5. Section 23(2)(f)(i) of the 1989 Act permits local authorities to make *such other arrangements* as seem appropriate when they place a looked after child. This provision offers scope for children's services to ensure that they are able to make appropriate provision with support tailored to the needs of the young person for those homeless 16 and 17 year olds who they accommodate, and are looked after, but for whom fostering or a children's home placement would not be the most suitable option.
- 3.6. From the point at which children's services accommodate a 16 or 17 year old child, they should look forward to the support that the young person will need to make a positive transition to greater independence. This might include, for example, the provision of supported accommodation (perhaps jointly funded) where young people

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<sup>7</sup> R (G) v Southwark [2009] UKHL 26 – para. 31

<http://www.publications.parliament.uk/pa/ld200809/ldjudgmt/jd090520/appg-2.htm>

can remain beyond the age of 18 and develop the skills they will need to manage the transition to adulthood. This kind of accommodation might be jointly commissioned by children's services and housing services and will enable children's services to meet their forthcoming duties to secure sufficient accommodation for looked after children and care leavers in their area.<sup>8</sup> For example, a formerly homeless young person may be placed in "supported lodgings" to offer them opportunities to take on more responsibility for their own care in order to prepare them for the transition to adulthood.

- 3.7 The primary issue to be addressed in making each and every placement in "other arrangements", just as in any other placement setting, will be: how will making this placement meet the assessed needs of the individual young person?
- 3.8 Where a young person is placed in *other arrangements* then the local authority must prepare a placement plan which is agreed between the young person and the person responsible for supporting the young person in the accommodation. This should be the person who will have the most day to day contact with the young person, for example their 'key worker' or supported lodgings host/carer. Any support plan setting out how the supported accommodation service will support the young person should be integral to the placement plan and avoid duplication.
- 3.9 The placement planning process should involve an exchange of appropriate information included as part of the core assessment process which informed the development of the looked after young person's care plan, so that the accommodation provider has a full understanding of the young person's needs and their role in meeting these needs. It will be essential that the provider appreciates the arrangements that the local authority proposes to put in place to make sure that the young person is adequately supported. The placement plan must be explicit about the respective roles and responsibilities of the placement provider and the young person's social worker, their Independent Reviewing Officer and of other staff employed or commissioned by the authority to contribute to the plan for the young person's care.
- 3.10 The plan must set out:
- the respective safeguarding responsibilities of the provider and local authority
  - the frequency of visits the young person can expect from their responsible authority
  - communication arrangements between the provider and the local authority
  - the provider's responsibilities for notifying the young person's social worker and accountable staff of the authority of any significant change in the young person's circumstances
  - arrangements for giving notice of intention to terminate the placement (along with the authority's responsibilities for convening a review of the young person's care plan where there is a risk of the placement being terminated).

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<sup>8</sup> Section 22G of the 1989 Act inserted by section 9 of the Children and Young Persons Act 2008 – s.9

#### 4 **Provision of accommodation for 16 and 17 year olds to whom a section 20 duty is not owed or who refuse section 20 accommodation**

- 4.1 If children's services decide that they do not have a duty to provide accommodation for a homeless 16 or 17 year old or the young person has refused provision of accommodation, children's services must consider what other support and services should be provided for the young person to meet their needs in conjunction with housing services.

##### *Securing accommodation under Part 7 of the 1996 Act (housing services)*

- 4.2 Under Part 7 of the 1996 Act, and the *Homelessness (Priority Need for Accommodation) (England) Order 2002*<sup>9</sup>, applicants aged 16 or 17 have a priority need for accommodation if they are not owed a duty under section 20 of the 1989 Act. Where such applicants are also eligible for assistance and unintentionally homeless, the local housing authority will owe them a duty under section 193 (2) of the 1996 Act to secure that accommodation is available for their occupation. Authorities should refer to the *Homelessness Code of Guidance for Local Authorities* for general guidance on discharging their homelessness functions under Part 7 of the 1996 Act.
- 4.3 Where children's services have decided that a section 20 duty is not owed for one of the reasons above, and the young person applies to housing services for accommodation or assistance in obtaining accommodation, housing services will need to consider whether any duty is owed under Part 7 of the 1996 Act (section 184).
- 4.4 In any case where housing services provide accommodation for a child in need, children's services will need to consider the provision of services under section 17 of the 1989 Act to meet the young person's other needs.
- 4.5 Where an application for housing assistance is already under consideration (for example, because the young person's initial approach for help was made to housing services and the young person had been referred to children's services for an assessment of need), the notification by children's services that a section 20 duty is not owed will enable housing services to complete their inquiries under section 184 of the 1996 Act and decide whether any duty is owed under Part 7.
- 4.6 In considering whether a duty under Part 7 is owed to a 16 or 17 year old who has refused section 20 accommodation, it is for the housing authority to satisfy themselves in each individual case whether the applicant is homeless or threatened with homelessness. Authorities should not adopt general policies which seek to pre-define circumstances that do or do not amount to intentional homelessness or threat of homelessness.
- 4.7 Where a 16 or 17 year old is secured accommodation under Part 7 of the 1996 Act, children's services should work closely with housing services to ensure that the young person is provided with sufficient support to ensure he or she does not become homeless intentionally in the future, for example, as a result of accruing rent arrears or being evicted due to bad behaviour.

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<sup>9</sup> <http://www.opsi.gov.uk/SI/si2002/20022051.htm>

- 4.8 Where children's services hold open the offer of accommodation on a temporary basis to ensure that a 16 or 17 year old has accommodation available to meet his or her immediate needs, housing services should not necessarily consider that the young person is not homeless. Housing services will need to consider whether, in the circumstances, it would be reasonable for the applicant to continue to occupy the accommodation indefinitely, if they did not intervene and secure alternative accommodation.
- 4.9 In order to help facilitate the provision of accommodation by housing services to meet the young person's accommodation needs in the longer term, children's and housing services will need to agree a procedure for children's services to inform housing services that their provision of temporary accommodation will come to an end. This process should aim to minimise anxiety for the young person associated with concerns that they may again find themselves without anywhere to live. Children's services and housing services will need to work together closely to ensure that the young person's ongoing housing needs can be met in the most practical and timely way possible.
- 4.10 Housing services are reminded that applicants cannot be considered to have become homeless intentionally because of failing to take up an offer of accommodation; homelessness is only capable of being 'intentional' where the applicant has ceased to occupy accommodation that it would have been reasonable for him or her to continue to occupy.
- 4.11 Case law has established that in some circumstances a person does not do, or fail to do, something "deliberately" for the purpose of Part 7 of the 1996 Act if he makes a considered choice between two courses of action or inaction, either of which he or she is able to take. Thus, the Secretary of State considers that where a 16 or 17 year old is required to leave accommodation as a result of his or her decision to refuse section 20 accommodation (for example, where children's services bring to an end interim accommodation provided pending assessment of the young person's needs), that decision should not be treated as deliberate action or inaction that contributed to intentional homelessness, subject to it being an informed and considered decision.
- 4.12 If, for whatever reason, a 16 or 17 year old is found to have become homeless intentionally, housing services should inform children's services immediately (see section on joint protocols below). For further guidance about intentional homelessness, authorities should refer to Chapter 11 of the *Homelessness Code of Guidance for Local Authorities*.<sup>10</sup>

## **5. Joint working to tackle youth homelessness**

- 5.1 There is a clear legal framework for co-operation between children's services and housing services to meet the needs of children and young people. Section 27 of the 1989 Act empowers a children's services authority to ask other authorities, including any local housing authority, for "help in the exercise of any of their functions" under Part 3; the requested authority must provide that help if it is compatible with their own statutory or other duties and does not unduly prejudice the discharge of any of their own functions. The *Children Act 2004* broadened and strengthened the statutory

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<sup>10</sup> <http://www.communities.gov.uk/publications/housing/homelessnesscode>



framework requiring co-operation between relevant statutory services to improve outcomes for children and young people as part of developing an area's Children's Trust's arrangements.<sup>11</sup>

*Operational joint working - joint protocols*

- 5.2 It follows from the guidance above that the particular services a 16 or 17 year old should be provided with by children's services and housing services will depend on a range of factors in each case, including which service they initially seek help from; the outcomes of assessments and enquiries; and the wishes and feelings of the young person and the young person's family. It is therefore essential that services for homeless 16 and 17 year olds are underpinned by written joint protocols which set out clear, practical arrangements for providing services that are centred on young people and their families and prevent young people from being passed from pillar to post.
- 5.3 An effective joint protocol will set out a mutually agreed vision, objectives, systems and processes to ensure effective action to prevent youth homelessness and the provision of sufficient accommodation to meet the range of needs of homeless young people. In formulating a joint protocol, due regard should be had to the fact that the 1989 Act takes precedence over the 1996 Act in providing for children in need.
- 5.4 A joint protocol might cover the following:
1. Inter-agency arrangements to prevent youth homelessness and provide support to young people to remain living with their families.
  2. Information for agencies, for example Connexions services and Youth Offending Teams who may refer young people about where they should refer young people for help with homelessness.
  3. Arrangements for integrated or joint assessment processes where 16 and 17 year olds seek help because they are homeless, including information-sharing procedures.
  4. Agreed timescales (in line with the *Framework for the Assessment of Children in Need and their Families*) for assessing whether or not a homeless young person is a child in need and will be provided with accommodation by children's services.
  5. Arrangements for timely assessment and placement provision for young people who require accommodation on release from custody
  6. Arrangements for access to suitable emergency accommodation when needed.
  7. Arrangements for access to longer term accommodation with support for young people (including looked after children and care leavers) who need this service.

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<sup>11</sup> See *Statutory guidance on co-operation arrangements, including the Children's Trust Board and the Children and Young People's Plan (March 2010)* (<http://www.dcsf.gov.uk/everychildmatters/about/aims/childrenstrusts/childrenstrusts/>)

8. Agreed standards as to how the suitability of accommodation that is not formally regulated or inspected will be assured. These might make reference to the Quality Assessment Framework (QAF) or to the Foyer Federation's Accreditation Scheme<sup>12</sup>
  9. Arrangements for the provision of accommodation and other services to any 16 and 17 year olds who are neither being accommodated by children's services under section 20 nor have found to be owed the main homelessness duty by housing services (for example, because they do not wish to be accommodated under section 20<sup>13</sup> and are considered by housing services to have become homeless intentionally).
  10. Integrated monitoring arrangements to provide management information regarding outcomes for young people including through reconciliation with parents or carers.
  11. Processes for resolving any disputes arising between staff from children's services and staff from housing services (for example, where expectations for completing assessments within specified timescales have not been met).
- 5.5 The effectiveness and continuing relevance of joint protocols should be reviewed at least annually. Local authorities may find it helpful to establish multi-agency arrangements to monitor the effectiveness of protocols and the performance of local services in responding to homeless young people. Local authorities will need to consider at the outset, what data will be required for monitoring purposes and how the agencies involved in providing services to homeless young people will collect and analyse this. These monitoring arrangements will contribute to wider monitoring of the overall effectiveness of the children's trust in safeguarding children and young people and promoting their welfare.
- 5.6 It would be good practice for young people who have been provided with services to be consulted about the quality of services and contribute to service reviews.

*Strategic joint working*

- 5.7 Children's services will need to work with housing services (which will be within district councils in two-tier areas), registered social landlords; housing related support services and with other partners to secure a range of suitable housing and support options for young people and their families. This will include options for the provision of accommodation with support for 16 and 17 year olds who seek help because they are homeless, and for care leavers.
- 5.8 Children's services should be linked to housing authorities' strategic housing function, and housing authorities should be represented on the Children's Trust Board.

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<sup>12</sup> See <http://www.sitra.org.uk/index.php?id=1019> and <http://www.foyer.net/level3.asp?level3id=184>

<sup>13</sup> In this situation, where a young person remains homeless housing services should make a fresh referral to children's services - and children's services should undertake a further assessment of the young person's needs in the light of the change of circumstances. This will give the young person the opportunity to reconsider the option of being assisted under section 20.

5.9 The anticipated accommodation and support needs of vulnerable young people, including homeless 16 and 17 year olds and care leavers, should be represented in the following strategies and plans:

- The Children and Young People's Plan
- Housing and Homelessness Strategies
- Supporting People or Housing Related Support Strategies

5.10 Consideration should be given to developing collaboration between children's services and commissioners of housing and support services to meet the housing needs of young people in the area including providing suitable accommodation placements for looked after children aged 16 and 17. Services jointly planned and secured might include supported accommodation projects, floating support services, foyers, supported lodgings, and more specialist housing provision for particularly vulnerable young people.

## Annex

### Factors to be considered by children's services when assessing 16/17 year olds who may be homeless children in need,

	Dimensions of Need	Issues to consider in assessing child's future needs.
1.	<b>Accommodation</b>	<ul style="list-style-type: none"> <li>• Does the child have access to stable accommodation?</li> <li>• How far is this suitable to the full range of the child's needs?</li> </ul>
2.	<b>Family and Social Relationships</b>	<ul style="list-style-type: none"> <li>• Assessment of the child's relationship with their parents and wider family.</li> <li>• What is the capacity of the child's family and social network to provide stable and secure accommodation and meet the child's practical, emotional and social needs</li> </ul>
3.	<b>Emotional and Behavioural Development</b>	<ul style="list-style-type: none"> <li>• Does the child show self esteem, resilience and confidence?</li> <li>• Assessment of their attachments and the quality of their relationships. Does the child show self control and appropriate self awareness?</li> </ul>
4.	<b>Education, Training and Employment</b>	<ul style="list-style-type: none"> <li>• Information about the child's education experience and background</li> <li>• Assessment as to whether support may be required to enable the child to access education, training or employment.</li> </ul>
5.	<b>Financial Capability and independent living skills</b>	<ul style="list-style-type: none"> <li>• Assessment of the child's financial competence and how they will secure financial support in future</li> <li>• Information about the support the child might need to develop self-management and independent living skills,</li> </ul>
6.	<b>Health and Development</b>	<ul style="list-style-type: none"> <li>• Assessment of child's physical, emotional and mental health needs.</li> </ul>
7.	<b>Identity</b>	<ul style="list-style-type: none"> <li>• Assessment of the child's needs as a result of their ethnicity, preferred language, cultural background, religion or sexual identity.</li> </ul>