

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

Joint Protocol between:

Lincolnshire County Council Children's Services (Local Authority)
East Lindsey District Council (Housing Services)
West Lindsey District Council (Housing Services)
Lincoln City Council (Housing Services)
South Kesteven District Council (Housing Services)
Boston Borough Council (Housing Services)
South Holland District Council (Housing Services)
North Kesteven District Council (Housing Services)
Supporting People (Commissioner)

Aims of the Protocol

To provide a joint response to the issue of Homeless and Potentially Homeless 16 and 17 year old young people.

To ensure that each organisation are clear about their respective responsibilities and work together to secure the best outcome for young people effected by this protocol.

To ensure that preventative work is undertaken to avoid young people becoming homeless.

All signatory organisations agree the following principles:

- **Homelessness can be prevented through active intervention**
- **In most cases 16 and 17 year olds are best accommodated in their family home unless it is not safe to do so**
- **A home visit should be undertaken in every case of a potentially homeless 16/17 year old**
- **All agencies should prevent homelessness where they can.**

The Law

Children's Act 1989

Section 20

"Provision of accommodation for children: general.

(1) 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".

(3) 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.

Section 17(10)

"For the purposes of this Part a child shall be taken to be 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."

Housing Act 1996 Part 7

The Homelessness (Priority Need for Accommodation) England) Order (SI 2002 No. 2051)

- (a) "a person aged 16 or 17 who is not a relevant child or a child in need to whom a local authority owes a duty under s. 20 of the Children Act 1989;
- (b) a person under 21 who was (but is no longer) looked after, accommodated, or fostered between the ages of 16 and 18 (except a person who is a 'relevant student');
- (c) a person aged 21 or more who is vulnerable as a result of having been looked after, accommodated, or fostered (except a person who is a 'relevant student')".

Local authorities cannot decide whether young people require accommodation under the provisions of the Children's Act or the Homelessness legislation, they must simply assess whether the young persons circumstances meet the criteria for s 20(1).

The purpose of the 2002 order was to provide accommodation to 16 and 17 year olds who did not fall under s 20 and were not vulnerable for some other reason, not to allow children's services department to divert their duty to housing authorities.

Children's services department have the power to ask other authorities including housing for "help in the exercise of any of their functions" (section 27 of Children Act 1989) . However this does not allow children's services departments to abdicate their responsibility, but can ask the other authority to use its powers to help them discharge theirs. They can ask a housing authority, for example, to make a certain amount of suitable accommodation available for them to use in discharging their responsibility to accommodate children under section 20.

The Southwark case ruling confirmed the Government's view that local children's services authorities should presume that any lone, homeless child should be provided with accommodation under section 20(1) of the Children Act 1989 unless the child is not in the local authority's judgement (based on an initial screening assessment), a child "in need".

The House of Lords reiterated that the Children Act has primacy over the Housing Act in providing for children in need. Recent guidance "Provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation" further clarifies the position.

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

Use of the Common Assessment Framework

The Lincolnshire **Homelessness Strategy** highlights the importance of homelessness prevention, reducing the numbers in temporary accommodation, and ending the use of B&B accommodation for young people.

The Lincolnshire **Supporting People Strategy** sets out commissioning intentions for services which promote individual's capacity to sustain independent lives. Services for young people at risk include both accommodation based and floating support services, and these will contribute to delivering the wider strategic aims of Lincolnshire, and promoting the well being of young people who are homeless or at risk of homelessness.

In all cases when a young person is 16 or 17 years of age and suspected to be homeless or threatened with homelessness, it will first be necessary to establish whether there is homelessness. A home visit should be carried out whenever possible by the agency concerned.

If the young person is not homeless but is in danger of becoming homeless in the near future, prevention activities will be necessary. A Common Assessment and a Team Around the Child will be arranged by that agency

If a young person directly approaches the Housing Authority and they consider that the young person is still able to live at home, they should be able to demonstrate that they have carried out an assessment of risk to the young person and again, ensure that a Common Assessment and a Team Around the Child is arranged by that agency. Children's Services department will cooperate by providing the housing authority with information to enable the housing authority to consider all factors when conducting the risk assessment (Housing Act 1996, Section 213).

For example, mediation, Family Group conference and support for the family may be required and the Housing Authority will need to ensure these services are provided through this process with the assistance of the Children's services department.

16 and 17 year old who may require accommodation with children and /or partners

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.

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.

Initial approaches to housing services

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.

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.

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.

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.

Approaches and referrals to children's services.

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 as appearing to be homeless or at risk of homelessness, or they are an 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.

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.

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.

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. For example, where a young person is sofa surfing amongst friends or is sleeping in a car, it may be 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 in addition to requiring accommodation. All these types of factors will be taken into account when undertaking the Child In Need assessment.

The most crucial issue to be determined through the assessment process will be whether the young person is actually homeless and therefore requires accommodation

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

An initial assessment should be carried out involving interviewing the young person and family members and making enquiries with other agencies. The assessment should be conducted jointly by both children's and housing services. The 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.

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.

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 assessment must reach a decision as to whether or not the young person is a child in need and requires accommodation as a result of one the scenarios set out in section 20(1)(a) to (c), section 20(3) or section 20(4).

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.

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,

The child becomes looked after at the point that the local authority determines the young person needs accommodation (including emergency accommodation) under section 20.

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.

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

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.

Young person's wishes and feelings

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. A key aspect of the assessment will involve reaching an understanding about how the young person views their needs.

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.

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. 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.

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.

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

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 suitable supported accommodation under section 20 of the 1989 Act by children's services

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. 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.

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.

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.

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?

Where a young person is placed in *other arrangements* then the local authority must prepare a placement plan.

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,

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).

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.

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

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)

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.

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.

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.

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.

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.

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*.

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

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

Factors to be considered in the assessment of need and meeting criteria for S20(1)

- Wishes and feelings of whether young person wants to be accommodate. Is young person competent to make such a decision? Is young person aware of the consequences of making this decision?
- Reasons of how Section 20 will assist young person in meeting his future education/job aspirations, what is young person's motivation?
- What can help young person move back with family
- Vulnerability
- Has young person been living independently for sometime without anyone caring/taking parental responsibility
- Can Housing provide accommodation as part of the section 20

PROCEDURE FOR QUERIES OR DISPUTES

If either the Housing Authority, Children's Social Care or another organisation signed up to this protocol is unable to agree in respect of any referral, assessment, support package or accommodation provision, then the case is to be discussed initially by the FAST Team Manager and the responsible Housing Manager

If this fails to reach resolution, then the issue should be referred to the appropriate Head of Service for resolution.

If any young person is dissatisfied with the manner or outcome of the Assessment procedure, they have the right to complain /appeal through existing complaints and appeals procedures.