

JOINT PROTOCOL ON YOUNG PEOPLE AGED 16/17 & CARE LEAVERS PRESENTING WITH ACCOMMODATION NEEDS

1. Approval and Authorisation

Completion of the following section signifies the review and approval of this process:-

Name	Job Title	Date
Children Services Senior Management Team	Children Services SMT	July 2020
District Homeless officers Group	District Homeless officers Group	March 2020
Children Services Senior Management Team	Children Services SMT	October 2021

2. Summary and Contents

This protocol is based on the Children Act Regulations and Guidance governing the joint working arrangements between Children's Services and District/Borough Councils. Its intention is to appropriately support 16 and 17 year olds who are homeless or threatened with homelessness. It expressly does not intend to:

- relieve parents of their duty to appropriately care for their young people in the family home;
- diminish the role of family friends in supporting young people to remain living in their community when families are unable to offer care and accommodation;
- relieve professionals of their duty to act to promote young people retaining their place within their family, extended family and community (relevant safeguarding concerns excepted);

- relieve the local authority of its duty to accommodate homeless 16 and 17 years olds that want to be Accommodated under Section 20 of the Children Act 1989,
- increase homeless presentations by young people.

The Protocol is primarily informed by the:

- MHCLG/DFE Joint Guidance
- Children Act 1989 part 3.
- Housing Act 1996 (as amended) part 7.
- Southwark Judgement Case Law 2009.

The intention of this policy is to primarily focus on support to 16 and 17 year olds that present as homeless. Some of these young people may be eligible for after care support and therefore the support for care leavers presenting with accommodation needs is detailed in section 9.

1. Introduction

- 1.1 There is a general duty under the Children Act 1989 to promote the upbringing of all children by their parents to the age of 18. Where this is not possible local authority children services will seek opportunities for extended family members to assume the care of the child or young person.
- 1.2 Local authorities only seek to share Parental Responsibility where the threshold for Section 20 or Section 31 of the Children Act 1989 is met, and it is in the best interests of the child to do so.
- 1.3 Young people over the age of 16 leave home for many reasons and include:
 - parents asking a young person to leave the family home;
 - a belief that differences resulting in family conflict are irresolvable;
 - to escape an abusive home situation;
 - misinformation about the availability of accommodation for young people,
 - it is unsafe for them to remain in the family home
 - underestimating the challenge and cost of independent living.
- 1.4 Derbyshire intends to improve outcomes for young people that present as homeless by working co-operatively and collaboratively across all its local authorities and also with the Private, Voluntary, and Community and Independent sector. Derbyshire intends to deliver:
 - positive and co-operative inter agency working relationships;

- the best use of limited resources;
- coherent cross agency intentions that shape relevant investment;
- a consistent inter-agency county wide response to all 16 and 17 year olds that present as homeless or with an accommodation need;
- a clear understanding of each professional role and its associated duties and responsibilities;
- good quality assessments that accurately determine holistic need;
- access to suitable emergency accommodation during an assessment process;
- sufficient accommodation to meet the needs of young people aged 16 and 17 years of age who are homeless.
- sufficient accommodation and support for care leavers

2 Statutory Duties and Guidance

- 2.1 The primary relevant children services legislation is the Children Act 1989, enhanced by Case Law known as the ‘Southwark Judgement’ 2010.

Judgments handed down by the House of Lords 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. Ref Para 1.1, page 2 of April 2010 Guidance at -

<https://www.gov.uk/government/organisations/department-for-education>

- 2.2 The primary responsibility to respond to homeless 16 and 17 year old rests with a local authority children services department. The crucial issue to be determined is whether a 16 or 17 year old is homeless and therefore requires accommodation. The assessment of need must also be holistic and not focus narrowly on his or her accommodation need.
- 2.3 Children services have a duty to provide accommodation for any child in need within their area who has reached the age of sixteen and whose welfare “is likely to be seriously prejudiced if they do not provide him/her with accommodation”. The duty is engaged when a children’s services authority determines that:
- the young person is in fact **In Need** and requires accommodation;
 - as a result of being accommodated the young person becomes, **Looked After**.

- 2.4 A young person will acquire automatic access to After Care services under the following criteria:
- An 'Eligible Child' is a child who is aged 16-17 and who has been looked after by a local authority for at least 13 weeks since they were 14, and who continues to be looked after.
 - A 'Relevant Child' is a child aged 16-17 who is no longer looked after by a local authority, but who was before they ceased to be looked after an eligible child (looked after for at least 13 weeks after the age of 14 and has been looked after for some time while they were aged 16/17)
 - A 'Qualifying Child' is a child aged 16+ who has been looked after for a period of time amounting to less than 13 weeks since their 14th birthday, and was looked after on or after their 16th birthday.
- 2.5 Any young people who present as homeless that will not qualify for care leaver status will still fall under the primary responsibility of children's services however they will require a joint assessment alongside the relevant local housing department to develop a personal housing plan and a S17 Child in Need plan, taking into account their accommodation needs at 18.

3 Agencies Response to 16 and 17 Year Olds Presenting as Homeless

- 3.1 First approaches to housing require a robust response to prevent further approaches as well as those that might approach multiple times.
- 3.2 Young people that present more than once as homeless are likely to require a concerted service response. However, in the absence of Section 47 safeguarding concerns most young people presenting as homeless should appropriately be encouraged to return to the care of their family with support. Family care consistently delivers the best outcomes for children.
- 3.3 Poor long term outcomes are associated with care leavers and also young people that leave home in an unplanned manner. Young people unprepared to manage and retain tenancies are particularly vulnerable to long term homelessness.
- 3.4 Housing Officers

Unless there are relevant safeguarding concerns all young people aged 16 and 17 years old approaching a Derbyshire district or borough council for housing support should be informed their parents will be contacted.

Housing officers should work to support that young person return to the care of their family. This should be followed up with a referral to Starting Point to ensure the young person and family have access to support to enable them to remain in the family home.

The Housing Act 1996 as amended will apply, alongside guidance from the Secretary of State:

'The Secretary of State considers that, generally, it will be in the best interests of 16 and 17 year olds to live in the family home, unless it would be unsafe or unsuitable for them to do so because they would be at risk of violence or abuse. It is not unusual for 16 and 17 year olds to have a turbulent relationship with their family and this can lead to temporary disagreements and even temporary estrangement. Where such disagreements look likely to lead to actual or threatened homelessness the housing authority should consider the possibility of reconciliation with the applicant's immediate family, where appropriate, or the possibility of him or her residing with another member of the wider family.'

In all cases involving applicants who are 16 or 17 years of age a careful assessment of the young person's circumstances and any risk to them of remaining at home should be made at the first response. Some 16 and 17 year olds may be at risk of leaving home because of a temporary breakdown in their relationship with their family. In such cases, the housing authority may be able to effect reconciliation with the family. In some cases, however, relationships may have broken down irretrievably, and in others it may not be safe or desirable for the applicant to remain in the family home, for example, in cases involving violence or abuse.

Therefore, any mediation or reconciliation will need careful brokering and housing authorities may wish to seek the assistance of social services in all such cases' Source - Homelessness Code of Guidance for Local Authorities July 2006, Page 104, Para 12.7 to 12.9

<https://www.gov.uk/government/organisations/department-for-communities-and-local-government>

If a young person's family and the young person continues to maintain a stance that s/he is homeless or at risk of homelessness housing officers should refer to children's social care.

Young people that are open cases will be supported by their current Children's Services worker- Housing Officers should check with the young person to determine if they have a worker and obtain their details, if the Young Person's is unclear then a call should be made to the Professionals Helpline at Starting Point – 01629 535353

All other referrals are to be directed into the Derbyshire County Council Starting Point contact and referral service for children. Starting Point – 01629 533295

3.5 Childrens Services

On receipt of a referral Starting Point will:

- forward open cases for a response from the allocated social worker/early help worker or duty worker in that locality.
- triage new and closed cases and determine the threshold and pass to the appropriate team for assessment.

3.6 On receipt of urgent referrals to the locality; a duty worker will contact the young person and family to agree how to address the immediate presenting accommodation and support need.

3.7 Young people that are not open to children services and present as homeless to a children services outlet will be responded to by an early help worker who will deal with the immediate issues and record a contact record to be tasked to Starting Point for an appropriate triage.

3.8 Children services will undertake a holistic Early Help/Single Assessment on each referred homeless young person to determine their support needs, including their accommodation need. Assessments will be completed within 10 days. Every effort will be made to work jointly with housing to explore the options/realities with the young person.

3.9 Young people whose needs could be met by supported accommodation will be provided with information to enable them to make an informed choice about whether to accept accommodation and services under Section 20 of the Childrens Act 1989.

4 Requirement for Emergency Accommodation 16 & 17

4.1 Bed and Breakfast is not suitable emergency accommodation for homeless 16 and 17 year olds.

- a. Children services must secure suitable short term emergency accommodation for any 16 or 17 year old that appears to have nowhere safe to stay that night. This will mean that the young person will become Looked After under Section 20 (1) of the Children Act 1989 if they are in the accommodation for more than 24 hours.
- b. Use of emergency accommodation under Section 20 denotes an absence of immediately available and suitable accommodation

within a young person's network. It does not confirm either that the young person is homeless or that s/he requires an ongoing Section 20 service.

- c. Young people accommodated under Section 20 are not eligible for either welfare or housing benefit payments¹. Children's services have a duty to meet their immediate accommodation and living costs.
- d. If a YP is given emergency accommodation the assessment may identify that:
 - a young person does have somewhere suitable and safe to stay and that the need for emergency accommodation no longer exists;
 - provision of supportive services will facilitate a return home;
 - the young person is homeless and consents to the use of Section 20 to meet his or her needs,

5 Where there is a Duty Under the Children Act 1989 Section 20

- 5.1 The young person must be fully informed, and enabled to understand the nature of the circumstances they are in and the options available to them. This should include:
 - provision of comprehensive written information;
 - verbal information;
 - access to an independent advocate as necessary,
 - an understanding that the balance between their needs and placement availability will inform placement choice.
 - young people will be fully informed about the care leaver offer to ensure they are making an informed choice.
- 5.2 If the Single Assessment considers that a duty under Section 20 is met, a recommendation to accommodate will be made to the Locality Head of Service and the case presented at the next Scrutiny Panel.
- 5.3 If the Single Assessment considers that a duty under Section 20 is met, but a young person **declines a Section 20 service** in favour of a Section 17 Child in Need plan and supported accommodation, the case will be:
 - discussed with the Locality Head of Service to confirm the appropriateness of a Section 17 Child in Need plan.

¹There are exceptions for lone parents and for disabled young people who may have established entitlement to non-means tested benefits.

- presented at the next Scrutiny Panel to acknowledge edge of Care status, and confirm the Section 17 route as an appropriate response.

The informed agreement of each young person must be secured prior to confirming if the young person will be supported through a Section 17 plan or Section 20 plan and associated processes.

- 5.4 Agreement must be recorded on Mosaic (within the single assessment homeless section) to confirm that their choice of route has been explained to them, and also that they have understood the:
- information provided;
 - information in relation to their particular needs;
 - content of each of the two service routes;
 - service content of each route post 18 years of age;
 - eligibility criteria for After Care services only applies to young people looked After for 13 weeks or more,
 - unless inappropriate all agencies will continue to make efforts to return young people to the care of family as it is overall the best place to grow up in and enter adult life from.
- 5.5 Every 16-17 year old assessed as being a child in need but who does not wish to be accommodated under section 20 should have a child in need plan setting out the services that will be provided to meet their needs.
- 5.6 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:
- a. has been provided with all relevant information;
 - b. is competent to make such a decision; and
 - c. that they do not need to take additional safeguarding action.
- 5.7 Where there is any doubt about a 16 or 17 year old's capacity to judge what may be in their best interests, e.g. whether they should be accommodated under section 20 of the 1989 Act or seek alternative assistance, there will need to be further discussion involving children's services, housing services, the young person concerned and their family where safe and appropriate, to reach agreement on the way forward.

6 Duty to refer to housing services

- 6.1 Local authority children's services are among the public authorities which are required to notify a housing authority of service users they consider may be homeless or threatened with homelessness (i.e. it is likely they

will become homeless within 56 days) (section 213B of 1996 Act). Before making a referral a public authority must:

- a. have consent to the referral from the individual;
- b. allow the individual to identify the housing authority in England which they would like the notification to be made to; and,
- c. have consent from the individual that their contact details can be supplied so the housing authority can contact them regarding the referral.

6.2 If a referral is made to a housing authority children's services should include a summary of any initial assessment and provision of support to the young person and what assistance, if any, housing services might provide. When the housing authority receives a referral from children's services the two services should work together to ensure that the needs of the young person are met.

7 Financial Responsibility – Section 20 and Section 17

- 7.1 Section 20 - children's social care is responsible for all the costs of a young person's accommodation up to 18 years of age.
- 7.2 Section 17 – Young people will be supported to make a claim for universal credit and housing benefit to help pay for accommodation. Any further expenses will be met by Children's Social care.

8 Support Plans and 'Move On Accommodation' –

- 8.1 Support plans for young people under the age of 18 will be led by children services and identify the support package content, roles and tasks.
- 8.2 All young people placed in accommodation will retain their eligibility for that accommodation and will not be moved on or evicted from the accommodation without prior discussion and agreement with their social worker and/or leaving care worker.
- 8.3 Children's Services will work closely with local housing teams when young people are approaching their 18th birthday (at 17 years and 9 months) to ensure there is a robust housing plan in place to allow the young person to make a successful transition to independent living.

9 Accommodation Offer for Care Leavers over 18

- 9.1 Care Leavers presenting as homeless at District Housing Teams will be given priority housing status.
- 9.2 No 'Intentionally Homeless' decision is made without consultation with the Leaving Care Service.
- 9.3 District Housing Teams will liaise with their Leaving Care Personal Adviser to check if they have been referred to the Step-Up Accommodation offer.
- 9.4 If there is no availability within Step-Up Accommodation then Housing will take the lead in finding suitable accommodation for the care leaver while they assess their needs.
- 9.5 The Leaving Care Service will not place young people in bed and breakfast accommodation.
- 9.6 Derbyshire District Council Housing teams may need to use bed and breakfast accommodation for homeless young people however this is an absolute last resort, for the shortest time possible.
- 9.7 Should a care leaver be in bed and breakfast accommodation, timely communication between the Leaving Care Service and Housing will take place to ensure a joint approach to enable the young person to move into suitable accommodation in a timely way.
- 9.8 The Leaving Care Service will undertake visits proportionate to the needs of the Care Leaver with sufficient regularity to understand the lived experience of the young person and the condition of the accommodation.
- 9.9 Any care leaver in bed and breakfast without a clear move on plan will be referred to the multi-agency care leaver safety panel.

Appendix 1-Factors to be considered by services when assessing 16-17 year olds who present as homeless or at risk of homelessness:

	Need	Issues to consider
1	Accommodation	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	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	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? Does the child have capacity to make decisions and understand what may be in their best interests?
4	Education, training and employment	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	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	Assessment of child's physical, emotional and mental health needs
7	Identity	Assessment of the child's needs as a result of their ethnicity, preferred language, cultural background, religion or sexual identity

Appendix 2- 16 & 17 year old presenting to District Housing Teams as homeless or at risk of homelessness

The Housing Advisor will make enquiries into the young person's immediate circumstances to include:

- The reason for homelessness from the young person's perspective
- Where the young person stayed the night before
- Contacting the parent/ guardian to confirm the young person's homelessness and their perspective
- Establishing if the young person is being supported by any other professionals (e.g. Social Worker, Early Help Worker, Youth Offending worker, School/ College Pastoral worker, Health Professional etc)
- Contacting Starting Point to establish whether the young person is currently allocated, previously allocated or not known to Children's Services.

If YP is deemed not to be homeless or at risk of homelessness:

Referral will be sent to Starting Point for reference and follow up from Early Help Team to ensure the right support is in place so the young person does not need to make further homeless presentations

If YP is deemed as 'roofless' that evening:

Already open to Children's Services-housing will liaise with the allocated worker and a joint housing plan and single assessment will be commenced and suitable emergency accommodation will be identified.

If they are not open to Children's Services housing will refer through to Starting Point who will triage the referral and allocate to the appropriate Locality District teams for duty worker allocation. Duty worker will liaise with the relevant Housing Officer to commence joint housing plan and single assessment and suitable emergency accommodation will be identified.

If young person is unable to return home they will be informed that they will be assessed by Children's Social Care and informed of the implications and benefits of being considered in need of accommodation under Section 20, Children Act 1989. The social worker should explain all the options available and carefully record the discussion and views of the young person.

Appendix 3

Guidance on the Homeless Pathway Assessment for 16/17 year olds

This guidance is to be read in conjunction with the joint protocol on young people aged 16 to 17 presenting with accommodation needs.

Process:

If a referral outcome is that a young person requires accommodation to be provided by the Local Authority a single assessment is required and must be completed within 10 working days. However, if a Young Person is homeless, they can be placed in emergency accommodation whilst the assessment takes place, with agreement from the Locality Manager and the case will be presented at the next Scrutiny Panel.

If the Single Assessment considers that a duty under Section 20 is met, a recommendation to accommodate will be made to the Locality Manager and the case presented at the next Scrutiny Panel.

If the Single Assessment considers that a duty under Section 20 is met, but a young person declines a Section 20 service in favour of a Section 17 Child in Need plan and supported accommodation, the case will be:

- Discussed with the Locality Manager to confirm the appropriateness of Section 17 Child in Need Plan;
- Presented at the next Scrutiny Panel to confirm the Section 17 route as an appropriate response.
- Every 16 or 17 year old assessed as being a child in need but who does not wish to be accommodated under Section 20 should have a Child in Need Plan setting out the services that will be provided to meet their needs.

Where a 16 or 17 year old child in need wishes to refuse accommodation offered under Section 20 of the 1989 Act, Childrens Services must be satisfied that the young person:

- a) has been provided with all relevant information;
- b) is competent to make such a decision; and
- c) that they do not need to take additional safeguarding action.

Single assessment completion:

When the single assessment workflow step is opened, click on the 'forms and letters' icon which will then give you the option to open the Homeless Pathway Assessment.

The homeless pathway assessment form has guidance within the document and is a form that requires completion in conjunction with the single assessment however the assessment detail needs to be contained within the generic single assessment document.

The young person must be fully informed and enabled to understand the nature of the circumstances they are in and the options available to them. This should include:

- Provision of comprehensive written information;
- Verbal information;
- Access to an independent advocate as necessary;
- An understanding that the balance between their needs and placement availability will inform placement choice;
- Young people will be fully informed about the care leaver offer to ensure they are making an informed choice.

At the point of the assessment and contact with the young person, they need to be provided with the S20 and S17 information sheets and this needs to be explained to them in detail to ensure they understand the different options available to them.

Appendix 4-Young people's Information Sheets

We are completing this assessment to understand what your needs are and if you require accommodation by the Local Authority, what types of support you may need. The accommodation that is offered to you will be the decision of the social worker, taking your preferences into account, however will be based on what is available and what your needs are. You will not be able to choose to live in Bed and Breakfast accommodation.

An explanation of services I will get as a Child in Care under Section 20 (1) of the Children Act 1989

- As a child in care, this means that Children's Services will be acting as your parents and they will be responsible for looking after and supporting you as detailed below. There are a lot of legal requirements if you are a Child in Care which must be met.
- A social worker will be allocated to you
- The social worker will coordinate the agencies that are supporting you to try and work together effectively. A Care Plan will be completed by your Social Worker, this will detail what you need and how agencies can support you.
- As part of the Care Plan, a Pathway Plan will also be completed which will specifically consider how they prepared you are to live independently.
- You will get help with; housing issues and appointments, education, employment and training, independent living skills, support in keeping relationships with your family members, any other advice and support as needed.
- There will be regular meetings and reviews involving yourself and the agencies supporting you to check the progress of the plan. The reviews will be chaired by an Independent Reviewing Officer.
- You will need to have regular Medicals. This includes checks on your height and weight, general chat about how you are feeling and any health issues or worries you may have. You will need to register with a Doctor and Dentist.
- Your rent will be paid for by Children's Services and you will get a weekly allowance payment, which is the same amount as Universal Credit.
- You will have to claim benefits when you leave care.

- At the age of 18 you will become a 'Care leaver' and will therefore be eligible for the support of the Leaving Care service and will be allocated a Leaving Care worker. Children in care are now allocated a Leaving Care worker at the age of 16 who will work in joint alliance with the allocated social worker. Children in Care and Care Leavers are eligible for the support of the Leaving Care Service from the age of 16 -25, and will also access financial support.
- If you however return home and remains at home for 6 months prior to being 18 you will no longer be eligible for the full support of the Leaving Care Service, you will instead be offered signposting support and guidance, you will also not be eligible to financial support from the Leaving Care service.

YOU WILL BE EXPECTED TO BE RESPONSIBLE FOR PLAYING YOUR PART IN THE PLANS, WHERE YOU DO NOT YOU MAY BE DISCHARGED FROM BEING LOOKED AFTER.

I have read and discussed the above information.

I agree to be supported as a child in care.

Signed.....

Date.....

An explanation of services I will get as a Child in Need under Section 17 of the Children's Act 1989

- As a child in need you will be supported by Children's Services, you will be supported in taking on the responsibilities of living independently or in returning to live with your family (depending on your circumstances).
- You will have a named worker who will lead the work with you and coordinate other agencies to offer to support you as necessary.
- Your worker will draw up a Child in Need plan to detail what support you will receive and who will be providing the support. There will be meetings and reviews with you and any other people who become important in meeting your support needs.
- You will get help with; housing issues and appointments, education, employment and training, independent living skills, support in keeping relationships with your family members, any other advice and support as needed.
- As you are aged 16 or over, you will be entitled to Universal Credit. You will be supported to claim your benefits if you are going to live independently. You may get some temporary financial support until you are in receipt of your own benefits, if the benefits you receive are backdated, then you will have to return some of that money.
- This support is available to you for as long as you remain in accommodation provided by the Local Authority, or until you reach the age of 18.

YOU WILL BE EXPECTED TO BE RESPONSIBLE FOR PLAYING YOUR PART IN THE PLANS, WHERE YOU DO NOT THE LEVELS OF SUPPORT MAY BE WITHDRAWN.

I have read and discussed the above information.

I agree to be supported as a Child in Need.

Signed.....

Date.....