

Joint Protocol between Sandwell Children’s Trust and Sandwell Metropolitan Borough Council Housing Services for Young People Aged 16- 17 Years at Risk of Homelessness

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This protocol will be reviewed on a 12 monthly cycle.

Next Review Date: 18th February 2022

**Table of Contents**

1. [Introduction](#_bookmark1)
2. Purpose of Joint Protocol
3. Key Principles
4. Relevant Statutory Guidance and Legislation
5. Joint working – Actions to be taken by SMBC if young person initially presents to the Housing Service
6. Joint working – Actions to be taken by Sandwell Children’s Trust if young person initially presents to SCT.
7. The Child in Need Assessment
8. Actions to be taken with the young person following the outcome of the Assessment
9. Explaining assessment outcomes to the young person
10. First contact with other agencies
11. Duty to Refer
12. Dispute Resolution
13. Protocol Monitoring

Appendix 1 – Overview of legislative context

Appendix 2 – Flowchart: Joint Working Arrangements for homeless 16/17 year olds.

# Introduction

Sandwell Children’s Trust (SCT) and Sandwell Metropolitan Borough Council (SMBC) Housing Services are committed to achieving the best possible outcomes for all young people. The aim of this joint protocol for working with homeless 16 and 17 year olds is to reflect the joint commitment of SCT and SMBC Housing Services to preventing, or resolving, youth homelessness. The purpose of the joint protocol is offer young people the best housing advice and support in a seamless way which is cost-effective, efficient and, most of all, safeguards young people and supports our work to maximise their life chances.

Homelessness at a young age can impact on life chances and safety and should therefore be avoided wherever possible when young people cannot, for whatever reason, continue to live with their families. This Protocol concerns those young people where homelessness appears not to be immediately preventable and it details what respective agencies will do to assess needs and support these young people. Alongside statutory duties, we are committed to continuing with prevention work even once the young person has left the family home, as it may still be possible to resolve conflict and/or reunite young people with their families where it is safe to do so.

Joint Statutory Guidance originally published by the Department for Communities and Local Government and the then 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 (April 2010) and the updated guidance 2018 makes it clear that the needs of young people aged 16 or 17 should be considered first and foremost under the Children Act (1989) section 20 and recognises that young people of this age who are homeless are “extremely likely” to be Children in Need under the terms of the Children Act.

Decisions made only about their need for accommodation under Housing legislation are unlikely to prove to be an adequate response and should only be made after Children’s Services have considered the young person’s need for assistance even when the young person first approached SMBC Housing Services for assistance in securing appropriate accommodation. It is therefore essential that children’s services and housing services work together to plan and provide services that are centred on young people and their families and prevent young people from being passed back and forth between services.

# Purpose of Joint Protocol

Effective homelessness prevention work is at the heart of the approach of helping potentially homeless 16 and 17 year olds. Young people may become homeless for a variety of reasons. However, family breakdown, mental health concerns and unemployment are often major contributing factors to this. 16 and 17 year olds who are homeless or threatened with homelessness are likely to be vulnerable and will often be at risk of harm in the absence of intervention. Safeguarding and promoting their welfare should be central to service provision. It is the responsibility of all agencies to keep the young person safe and their welfare is paramount at all times.

The purpose of the joint protocol is to:

* + - Improve levels of prevention of homelessness
		- Ensure better safeguarding of young people at risk of, or who are homeless
		- Provide a clearer understanding of roles and responsibilities for workers, wider agencies and young people
		- Reduce the risk of young people “falling through the net”
		- Promote better working relationships between agencies

# Key Principles

This protocol is based on the following principles and beliefs about young people and their transition to independent adulthood:

* + - The experience of homelessness is damaging to young people and to their life chances. We support the statutory joint guidance which states that “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”. It is the commitment of SCT and SMBC Housing Services to keep families together in their homes wherever this is possible as this is usually best for the child.
		- The parents of, or those of parental responsibility for, 16 and 17 year olds are responsible for their children’s welfare. There are a range of preventative services available from SCT and SMBC Housing Services to support a young person to remain in their family home and these options should be considered as part of the assessment process.
		- Safeguarding concerns should be reported to the MASH team at SCT and requests for additional family support or early help should be referred to the Early Help Hub. Where young people are unable or unwilling to return to their immediate families, young people should be supported to explore wider kinship care where their needs can be met.
		- Young people need to be given every opportunity to have a realistic understanding of the options available to them and to make informed choices about their future and their wishes and feelings should be taken into consideration at all times.
		- Bed and Breakfast accommodation, including hotels and nightly let accommodation with shared facilities, is not suitable to accommodate 16 and 17 year olds even on a temporary or emergency basis.

# Relevant Statutory Guidance and Legislation

This joint Protocol is an agreement which establishes the roles and responsibilities of different agencies towards homeless and or potentially homeless 16 and 17 year olds. It outlines the respective statutory responsibilities of SCT and SMBC Housing Services.

Following the, “G v Southwark 2009” House of Lords judgment, the Government issued joint statutory guidance from the Department for Children, Schools and Families (now the Department for Education) and Department for Communities and Local Government - Provision of Accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation. This guidance outlines the legal duties under the Children Act 1989 and Housing Act 1996 for 16 and 17 year old young people who are homeless.

The guidance has been amended to reflect new duties introduced through the Homelessness Reduction Act 2017 (‘the 2017 Act’), and to incorporate other relevant updates giving clear direction that it is essential children’s services and housing services work together to plan and provide services that are centred on young people and their families, and prevent young people from being passed back and forth between services.

The joint statutory guidance gives clear direction on the complementary roles of children’s services authorities and local housing authorities in implementing their separate statutory roles. The G v Southwark judgment clarified that in the case of a homeless 16 or 17 year olds, children’s law takes precedence over housing law. In light of this clarification, a fundamental principle of the joint statutory guidance is that all 16 and 17 year olds who are homeless will be assessed by children’s services under the Children Act 1989 to determine whether they are a child in need, as set out in Section 17 of the Act and, if so, whether a duty exists to offer accommodation under Section 20 of the Children Act.

Young people aged 16 or 17 are still children and that as such, all agencies have duties and responsibilities to act together to protect them if they are suffering, or likely to suffer, significant harm.

Key extracts from this statutory guidance are:

* + Para 2.13“…children’s services should be the lead agency with regard to assessing and meeting the needs of 16 and 17 year olds.”
	+ Para 2.28 “An initial assessment should be carried our involving interviewing the young person and family members and making enquiries with other agencies…the lead agency will be children’s services, given their responsibilities for children in need in their areas.”

Links to the relevant guidance can be found below:

[**Provision of Accommodation for 16 and 17 Year Olds who may be Homeless and/or Require Accommodation**](https://www.gov.uk/government/publications/provision-of-accommodation-for-16-and-17-year-olds-who-may-be-homeless-and-or-require-accommodation).

[**A guide to the duty to refer**](https://www.gov.uk/government/publications/homelessness-duty-to-refer).

[**Homelessness code of guidance for local authorities**](https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-4-the-duty-to-refer-cases-in-england-to-housing-authorities).

Further information can also be found in Appendix 1.

# Joint working – Actions to be taken by SMBC if young person initially presents to the Housing Service.

1. The Housing Solutions Officer in conjunction with SCTwill ascertain the young person’s circumstances and immediate needs by interviewing them at the base to which they have presented, to determine whether the homelessness be prevented.
2. Where necessary, and provided the young person agrees, contact SCT to ascertain whether the young person is already known to them and whether there is any further information regarding the young person’s circumstances that would affect any decision about the safety of a return home. This may involve a joint home visit from the housing officer and a social worker from SCT.
3. Housing Services will be unable to determine whether a 16-17 year old has priority need under the 1996 Act until a child in need assessment has been completed. It is therefore essential that referrals are made and assessments completed in a timely manner
4. Where a Homeless Application is taken consideration is given to whether they are: within 56 days of being homeless (prevention duty) or actually homeless (relief duty)
	* Are they eligible under the provisions of the Housing Act 1996?
	* Are they homeless?
	* Are they in priority need because of their age?
	* Are they intentionally homeless?
	* Do they have a local connection and what consideration is to be given to this?

# Joint working – Actions to be taken by Sandwell Children’s Trust if young person initially presents to SCT.

# When a young person aged 16-17 year old presents to SCT as being homeless the first stage is to ascertain some more details regarding their circumstances to verify if they are, in fact, homeless or whether other services need to be provided to support the young person with the real/underlying presenting need.

If the young person is known to SCT and if this is an active case, the current allocated worker will deal with the presenting young person.

If the young person is not currently known to SCT then an assessment of their current circumstances will have to be completed by SAAT to clarify if the young person is a “Child in Need” in accordance with the legislation and relevant case law.

This assessment will be jointly undertaken with a Home Solutions Officer from SMBC Housing Servicesin order to provide a more integrated service to young people. Ideally a joint assessment will be completed at the same time but we recognise through practical reasons this may not be possible. Where assessments are not completed jointly we will aim to acquire enough information so as to enable the second assessor to avoid asking duplicate questions.

It should be noted that, as outlined in the G v Southwark ruling 2009 and in the subsequent statutory guidance there are very few circumstances in which a child who is homeless aged 16/17 would not to be assessed as being a Child in Need.

The assessment is not to consider who is best placed to meet the identified needs but should rather focus on what those needs are, as well as the expressed wishes and feelings of the young person, their capacity to make decisions regarding their accommodation arrangements and any risk factors that may be relevant.

Whilst SMBC Housing may fund the temporary Accommodation, SCT will be responsible for funding any associated support element.

# The Child In Need Assessment

The trigger for a Housing Solutions referral to SCT for a Child in Need assessment is when a homelessness application is taken. The CIN assessment will be conducted using the Single Assessment Framework. In every such case, the following issues should be addressed as part of the assessment.

1. Is the young person a child?
2. Is the young person a child in need? Does that need arise because the child appears to require accommodation?
3. Does the child appear to require accommodation as a result of one/or more of the S20(1 (a-c)) criteria:-
	1. There being no person who has parental responsibility for the child?
	2. The child is lost or abandoned
	3. The person who was caring for the child being prevented (whether permanently or for whatever reason) from providing suitable accommodation or care.
4. Is the child within the local authority area?
5. What are the young person’s wishes and feelings regarding accommodation? (N.B. although this is to be a consideration in any decision made it will not automatically be the deciding factor).
6. What consideration is given to those wishes and feelings (having regard to age and understanding)?
7. Does anyone with PR object to the local authority’s intervention? If so, an assessment of the young person’s safety in their care should be undertaken and if so, are they willing to provide accommodation? If so, an assessment of the young person’s safety in their care should be undertaken.
8. Even if there is objection does the child still wish to be accommodated

SCT will decide if the S20 criteria are met and if care is needed or reasonably preferred by the young person. In these cases, SCT will find and provide accommodation and the young person will be classed as being a child in care. Such accommodation does not necessarily have to be in either foster care or in a children’s home, but for 16/17 years old can be in “other arrangements” as set out in the DfE Care Planning Guidance for 16/17 year olds, as long as these are suitable to meet their need. The most appropriate form of accommodation will be dependent on the assessment of that young person’s needs. In these cases child in care procedures must be followed. In such cases, provision of accommodation is a SCT responsibility, but assistance can be requested from SMBC Housing Services in securing accommodation.

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# Initial Actions

As part of this assessment the officers will:-

* + Check whether the young person has already contacted them and if so clarify the status of their request for assistance under the Housing Act (1996).
	+ Agree where the most appropriate place is to see the young person.
	+ Determine in the first instance whether the young person is actually homeless,
	+ If the young person claims to have nowhere safe to stay in the immediate future and if this is endorsed by the assessment the options to be considered include:-
* Place the young person in appropriate emergency accommodation. SCT will not use Bed and Breakfast accommodation including hotels and nightly let accommodation with shared facilities, as these are not suitable to accommodate 16 and 17 year olds even on a temporary or emergency basis. Young people should not be placed in all-ages night shelter provision, even in an emergency.
* If the placement is made by SMBC Housing Services then it should be possible for the young person to apply for Housing Benefit to pay towards some/all of the housing costs.
* SCT will inform the young person what will happen next.
* SCT will ensure that the young person has the appropriate means to travel to the temporary accommodation and accompany them if they have additional vulnerabilities as highlighted within the assessment.
* SCT will ensure that once there, the young person has adequate food, toiletries, clothing and refreshments for that night.
* SCT will provide the young person with full information about what it means to be accommodated under Section 20 of the Children Act 1989 and what the implications and benefits there may be.
* SCT will seek the required consents to S20 admission: this includes the young person’s consent and that of any adult with parental responsibility. Should the person with parental responsibility refuse consent for S20, if the young person is deemed “Fraser Competent’, their consent will take precedence over parental consent.
* When consent has been confirmed, implementation of LAC admission procedures will commence by SCT.
* Where the placement is made by SCT, this will be as a Section 20 placement and as such the funding will be the responsibility of the SCT
* Where the placement has been agreed as a Section 20 placement SCT will also complete referrals to Internal Fostering for availability of any emergency foster placements and referral through SCT External Placements to a supported accommodation provider. These referrals will require completion of the Placement Referral Form and with Permission from the Director of Operations through Director’s Resource Panel)
* SCT will seek the required consents to S20 admission: this includes the young person’s consent and that of any adult with parental responsibility. Should the person with parental responsibility refuse consent for S20, if the young person is deemed “Fraser Competent’, their consent will take precedence over parental consent.
* When consent has been confirmed, implementation of LAC admission procedures will commence by SCT.

# Actions to be taken with the Young Person following the outcome of the Assessment

## If a duty is owed under Section 17 AND Section 20 applies the procedure is as follows:

* + Discuss assessment outcomes and options for the future with the young person, ensuring that they have the opportunity to make a fully-informed decision on whether to accept the offer of assistance under Section 20
	+ Based on the assessed needs of the young person discuss with the relevant team, the availability of foster or supported accommodation options

# If the young person accepts the offer of assistance under Section 20

* + Inform all relevant partners, parents and carers.
* Arrange a placement in suitable accommodation under LAC procedures, taking over financial responsibility for the young person’s accommodation if they have previously been placed by the Home Solutions team.

# If the young person does not accept the offer of assistance under Section 20

* + Prepare a child in need plan for Section 17 support.
	+ The housing officer present will undertake a home options interview with them.

## If a duty Is owed under Section 17 BUT Section 20 does NOT apply

* + Inform the young person and appropriate partners that Section 20 does not apply and include the reasons why.
		- Prepare a child in need plan for Section 17 support.
		- The housing officer present will undertake a home options interview with them.

**Special Considerations:**

## Teenage Parents young carer

Where the homeless young person is also a parent with a dependent child still in their care there should also be a formal assessment of the needs of the dependent child as a potential Child in Need in their own right.

## Unaccompanied Asylum Seeking Children (UASC)

On first presenting as homeless, unless it is established the UASC is ordinarily resident elsewhere in the UK (see above), any UASC aged 16-17 who is homeless is automatically owed S20 duties and becomes a child in care unless that young person makes a fully informed decision to decline this proposal. If the young person has already been accepted by another Local Authority, they retain responsibility for the services to the young person. If the young person is unknown, an age assessment is required to identify if the claimant is indeed 16/17 years old. A referral should be made to MASH who will arrange to carry out the age assessment. It may be that the young person requires accommodation whilst this assessment is on-going. The SCT SAATwill continue to liaise with the Home Solutions team should that be the case although the Housing Solutions service would not have a duty to provide accommodation.

# Explaining assessment outcomes to the Young Person

It is essential that the young person is fully consulted about and understands the implications of accepting or declining housing accommodation and/or accepting or declining S.20 care. If the assessing officers have any doubt as to a young person’s ability to understand the assessment or outcome, an advocate should be engaged to safeguard the young person’s rights and support them to reach informed consent.

SMBC Housing Services should be clear what assistance may and may not be available to young people under Part 7 of the 1996 Act as a possible alternative to S20. This should include how any entitlement for assistance under Part 7 will be determined and the possible risk of becoming homeless intentionally now and in the future.

Similarly, SCT must provide realistic and full information about the support the young person can and cannot expect either under S17 or S20 of the Children Act. The reason for staff giving clear explanations is so the young person can make an informed decision about requesting S20 or alternative accommodation options. In all cases, the young person should be advised where s/he can seek external advice if desired.

The decision regarding any housing duty or S17/S20 duty, to include the date the decision was made and the date young person informed and the rationale for any management decision made must be clearly recorded as the outcome of the Single Assessment. The Single Assessment should also record:

* Details of any accommodation provided including the date this started, provider name and date the young person moved in.
* If the young person refuses S20 care, the date it was refused and the reasons why should be recorded along with the date young person informed Housing of this.
* In all cases the decision made in respect of the young person’s needs and the assessment as to how those needs will be best met must be clearly recorded on the respective agency’s case files. This recording should specifically address the competence of the young person and the evidence that any decisions made by them were fully informed.

# First Contact with Other Agencies

Where other agencies, including youth work, education and voluntary agencies become aware of a young person aged 16 or 17 who is facing or who is already in a housing crisis or who has nowhere settled to stay (including sofa surfing) they should refer the young person to Children’s Services via the Early Help Hub, unless there are additional safeguarding concerns, in which case the MARF referral should go to MASH.

1. **Duty to Refer**

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:

1. have consent to refer the young person and supply their contact details to the housing authority.
2. allow the young person to identify the housing authority in England which they would like the referral to be made to.

# Dispute Resolution

Where there is any dispute or disagreement between staff working to this protocol this should not interfere with the provision of a seamless service to young person. The safety and well-being of young person must be secured by the service currently responsible for them whilst attempts are made to resolve the dispute. All staff and managers must aim to resolve disputes professionally. In the unlikely event that a resolution is not possible, the issue should be referred to the lead officers for the protocol for a final decision.

# Protocol Monitoring

It is important to monitor and evaluate the joint working protocol regularly. Quarterly Protocol Review meetings will be held by SCT and SMBC Housing Services to review the numbers of young people whose needs have been addressed via this protocol and their outcomes and address any working practice issues that may have arisen.

# Appendix 1: Overview of Legislative Context

1. The House of Lords Judgment, “G vs. Southwark” in May 2009 clarified the responsibilities of Children and Young Peoples Services (CYPS) towards homeless 16 and 17 year olds and the interrelationship between duties under the Children Act 1989 and Part VII of the Housing Act 1996 (as amended by the Homeless Act 2002). The judgement clarified the legal position that the duty under section 20 of the 1989 Act takes precedence over the duties in the Housing Act 1996 (as amended by the Homelessness Act 2002) in providing for children in need who require accommodation, and that the specific duty owed under section 20 of the Children Act 1989 takes precedence over the general duty owed to children in need and their families under section 17 of the 1989 Act.
2. In April 2010 the Department for Children, Schools and Families (DCSF, now the Department for Education) and Communities and Local Government published joint statutory guidance to children’s services and local housing authorities entitled “Provision of Accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation”. This summarises the implications of both Children Act 1989 and Part VII of the Housing Act 1996 (as amended by the Homelessness Act 2002) for 16 and 17 year old young people who are homeless.
3. Section 17 of the Children Act 1989 sets out responsibilities of local authorities to provide services for children in need and their families. It is the general duty of every local authority to, Safeguard and promote the welfare of children within their area who are in need; and so far as is consistent with that duty, to promote the upbringing of such children and their families by providing a range and level of services appropriate to those children’s needs.
4. Section 17(10) of the Children Act 1989 Act defines a child in need if:
	* they are unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without which the provision for them of services by a local authority under this Part;
	* their health or development is likely to be significantly impaired, or further impaired, without the provision for them of such services; or
	* they are 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 ages of 18 (section 105 (1) of the 1989 Act).
5. 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:
	* there being no person who has parental responsibility for them;
	* being lost or having been abandoned; or
	* the person who has been caring for them being prevented (whether or not permanently, and for whatever reason) from providing suitable accommodation or care.

In the case of “G vs. Southwark,” although the assessment of need under section 20 (1) involved an evaluative judgement on the part of the Local Authority, in this case all the elements required by section 20 (1) had been met. G was a child in need, in the local authority area and lacked accommodation as a result of his mother being prevented from providing him with suitable accommodation or care within the meaning of Section 20 (1) (c). If he lacked accommodation for one of the reasons in Section 20 (1) he required accommodation within the meaning of the section even if there was another way accommodation could be found for him.

1. 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 considers is likely to be seriously prejudiced if they do not provide him with accommodation.
2. Section 20(4) provides that a local authority may provide accommodation for any child in 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. There is a clear legal framework for co- operation between Children and family services (CFS) and LHAs to meet the needs of children and young people. Section 27 of the Children Act 1989 Act empowers CFS to ask other authorities, including any LHAs, 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.

1. Children Act 2004 – requires co-operation between relevant statutory services to improve outcomes for children and young people as part of developing an area’s Children’s Trust. This includes co-operation to safeguard children and young people.
2. Housing Act 1996 (as amended by the Homelessness Act 2002 and Homelessness Reduction Act 2017) - Parts VI and VII set out the legal framework for allocating housing and assisting homeless people.

**Section 175:** A person is homeless if they have no accommodation available in the UK or elsewhere, or if they cannot secure entry to it, or it is not reasonable for them to occupy it.

**Section 189:** A person is in priority need if they or their partner are pregnant, have dependent children, are aged 16 or 17 years old, are vulnerable due to old age, mental illness or handicap or physical disability or other special reason, or are homeless or threatened with homelessness as the result of an emergency.

**Section 191:** A person becomes homeless intentionally if they deliberately do, or fail to do, something that causes them to lose their accommodation in circumstances where it would have been reasonable for them to have continued to occupy that accommodation.

CLG Guidance on the Housing Act 1996 (as amended by the Homelessness Act 2002) recommended that housing and CFS should have joint protocols in place to ensure that each play a full role in providing support to 16 and 17 year olds.

1. Working Together to Safeguard Children 2015, \**Statutory guidance on inter- agency working to safeguard and promote the welfare of children*

**Appendix 2: Joint Working arrangements for homeless 16/17 year olds**

**Young person approaches Housing Services**

**Young person approaches SCT**

* Investigations have confirmed that the young person is actually homeless.
* Homeless Application Interview undertaken:
* Attempts made to contact family members
* St Basil’s Mediation engaged
* Checks made with Care Leavers Team to ascertain possible Care Leaver Status
* Multi-agency referral form completed
* Automatic referral to MASH - every young person referred will receive a statutory S17 Assessment.
* If homeless, young person should be placed by SMBC Housing as a request for assistance under the Housing Act (1996) into emergency accommodation for initial period spot purchased by SMBC Housing.
* SCT will determine if a young person is in immediate housing need via Child In Need Assessment.
* Prevention tools applied via Targeted Services Teams
* If homeless, young person should be placed by SCT under section 17 of the Children Act 1989 into emergency accommodation for initial period spot purchased by SCT.

**Joint Child In Need S17 Statutory Assessment to be started as a matter of urgency**

Joint assessment, with standard agenda, must include young person and social worker, can also include advocate, parents or person with parental responsibility. Ongoing proactive and preventative work will be undertaken alongside the assessment process. The young person will be assessed and advised of the options available. The young person should be made fully aware of the benefits of remaining or becoming looked after under section 20 of the Children Act 1989. If they decline they will be made aware of the local authority's duty to continue to support them under section 17 of the Children Act 1989 if they do not wish to be looked after. Checks should be made with regards to possible care leaver status via Leaving Care Team

**Outcome of assessment**

All attempts should be made to reunify young people with their parents, carers or family where it is safe to do so.

The outcome of the joint assessment will determine who is responsible for funding/support within 7 days

Young Person meets the criteria for Homelessness Duty

Young person meets the criteria for accommodation under section 20

Young person meets the criteria for accommodation under section 17

**Young Person Looked After and SCT meet financial cost** – variety of options available

**Supported Accommodation**

Facilitated by SMBC Housing. Funded bybenefits

**Section 17 Child In Need Plan –** supported lodgings facilitated by SCT / SMBC. Funded by benefits

When a young person refuses to be looked after, Housing benefit should be claimed for accommodation costs and SCT should develop a Section 17 plan. (Note: in these circumstances SCT are not placing the young person, they are facilitating suitable accommodation).