**Joint Working Protocol for Young People aged 16/17 years in Housing Need between Sandwell Children’s Trust, Adult Social**

**Care (Vulnerable Persons Housing Service) & Neighbourhoods/**

**Housing Choice**

# 1 Purpose

1.1 To ensure that the corporate responsibilities for meeting the diverse accommodation needs of 16/17-year-old young people who are homeless, are met.

1.2 This Protocol clarifies the operational interface between the Children and Families Service (inclusive of Early Help, Youth Service and the Youth Offending Service), Adult Social Care (Vulnerable Persons Housing Service) & Neighbourhoods (Housing Choice).

**1.3 Who does this Protocol apply to?**

The protocol applies to young people aged 16/17 years who are ***not***:

#  care leavers  relevant children  relevant students

**1.4 This Protocol does *NOT* apply to:**

* 16-year olds expected to attend school i.e. compulsory education. These young people are the responsibility of Children and Families Service.

* **Relevant Children.** A relevant child is a child aged 16/17 who was being looked after by local authority for at least 13 weeks since the age of 14 and has been looked after at some time while 16 or 17, and who is not currently being looked after. A child may also be a relevant child if he or she returns home on family placement and that has broken down. Responsibility for providing suitable accommodation for a relevant child rests with Children’s & Young People’s Services.

* **Relevant Students.** A relevant student is a care leaver under 21 years of age who is in full-time further or higher education and whose term time accommodation is not available during a vacation. Responsibility for providing suitable accommodation for a relevant student rests with Children’s & Young People’s Services.

# 2 Context

2.1 Local Housing Authorities (LHAs) are required under the Housing Act 1996 (as amended by the Homelessness Act 2002) to secure accommodation for people who are unintentionally homeless, eligible for assistance and in priority need. The assessment under the Housing Act can only be made once it is

known whether the young person is a child in need (Section 17, Children Act 1989) and is owed a duty under section 20 of the Children Act 1989. It is reasonable to assume that most homeless 16/17-year olds would likely be deemed to be a ‘child in need' and therefore that an assessment should be carried out by Children’s Trust to determine that issue and whether the child is owed a s20 duty, before Housing Services can determine if the child has a priority need (**House of Lords judgement in R v LB Southwark 2009**).

2.2 The Children (Leaving Care) (England) Act 2000, the Homelessness Act 2002 and Statutory Instrument 2002 No 2051 (the Homelessness Priority Need for Accommodation) (England) Order 2002, have underlined the need for those with responsibility for Childrens Trust and Housing to work more closely together to prevent and manage homelessness in relation to young people.

# 3 Process for Homeless 16/17 Year olds

3.1 Where a homeless 16-17-year-old approaches either agency (Children’s Trust & Neighbourhoods/ Housing Choice) they will establish if the young person is:

* expected to attend compulsory education,
* a ‘relevant child’ or
* a ‘relevant student’ (*See Section 2 above*).

* 1. Young People who fall within the above three categories who are 16/17 years old are the responsibility of Children’s Trust who have a duty to assess the young person’s needs and identify suitable accommodation if required and to support the young person.

* 1. Other homeless 16/17-year olds approaches shall be assessed by Children’s Trust as a s17 (CA’89) Child in Need within 7 working days of the approach or referral. However a ‘same day’ visit will be made jointly between Childrens Trust Teams (FST and SAT) to the young person.

* 1. Children’s Trusts and the Housing Choice Team will jointly consider the need for immediate accommodation and support for the young person and for ‘third sector’ involvement such as a referral, where safe to do so, to mediation or Supported Lodgings via the Supported Housing Independence Pathway (SHIP). Housing Choice can complete SHIP. Section 17 Child in Need payments will need to be provided to fund appropriately sourced accommodation (if appropriate) and provide a reasonable income allowance until relevant benefits are in payment.

* 1. Where a 16/17-year-old approaches SMBC Housing Choice Team as homeless a Housing Choice Assessment shall be conducted and a referral for a s17 (CA’89) Child in Need Single Assessment shall be completed by Children’s Social care where one or more of the following criteria applies:

* Parents/carers are refusing to offer accommodation
* Mediation/liaison with parents/carers has been unsuccessful
* The young person is sleeping rough/sofa surfing
* The young person is a parent and their children are homeless with them
* A young person is at risk of significant harm

* 1. The Housing Choice Team will provide interim temporary accommodation where needed whilst the Child in Need initial assessment is taking place. The LHA should only use bed & breakfast accommodation as a last resort and only then with appropriate support. The LHA should seek Supported Lodgings type accommodation either directly through YMCA Night Stop or via SHIP. Housing Choice will request Sec17 payments from Children’s Trust to secure this accommodation until relevant benefits are in place.

* 1. Children’s Trust shall feed back to the Housing Choice Team the outcome of the s17 (CA’89) Child in Need Single Assessment within 1 working day of the Child in Need Single assessment being completed.

* 1. Where a homeless 16/17 year old is found to be a Child in Need under s.17 CA’89, the responsibility for accommodating (s.20 CA’89) and support rests with Children and Families Service.

* 1. Where a homeless 16/17-year-old refuses a service from Children and Families Service, the Housing Choice Team will conduct a Housing Choice Assessment within 5 working days or within 1 working day if there is an issue of domestic abuse or there are safeguarding concerns.

* 1. Where it is accepted that the 16/17-year-old refusing services from Children and Families Services is homeless, a homeless declaration will be taken, and investigations commenced within 5 working days of a 16/17-year-old claiming homelessness unless there is an issue of domestic abuse or there are safeguarding concerns an interview will be carried out within 1 working day.

* 1. An interim duty to accommodate exists if the local housing authority (LHA) has reason to believe that the young person may be eligible, homeless and in priority need. The Authority may carry out initial enquiries to satisfy themselves there is a reason to believe the applicant is homeless, before an interim duty arises:

* 1. If the LHA is satisfied that the applicant is eligible; threatened with homelessness; in priority need; unintentionally homeless and has a local connection, they have a duty to ensure that accommodation does not cease to become available to the applicant.

* 1. If the LHA is satisfied that the applicant is eligible; homeless; in priority need; unintentionally homeless and has a local connection, they have a duty to ensure that accommodation is available for the applicant’s occupation (the full housing duty).

* 1. If there is no local connection the young person may be referred to an area where they do have a connection. Housing Authorities aim to complete inquiries within 33 working days.

* 1. All cases of 16/17 year olds with a homeless decision will be referred to Supported Lodgings accommodation through SHIP.

* 1. There is a right to request a review of a homeless decision. A review should be requested within 21 days of the date of the decision letter. A Homeless Review Panel will review the case within 27 working days of the request for a review.

* 1. Young people who are assessed as being in priority need and intentionally homeless are entitled to advice and assistance and to accommodation for a reasonable period to give them the chance to secure accommodation for him/ herself with the assistance of Children’s Trust. A decision by a competent young person not to be looked after should not be treated as a deliberate action that has contributed to him/her becoming intentionally homeless, provided that decision is an informed and considered one. (Ref: DCSF Guidance on Provision of Accommodation for 16 and 17-year-old young people who may be homeless and/ or require accommodation issued 1st April 2010, paragraph 4.11). A copy of the decision letter re intentional homelessness will be forwarded to Children’s Trust and to as soon as the decision is made.

* 1. 16/17-year olds in these circumstances will have been dealt with through the homelessness process and received a homeless intentional decision and also be prevented from joining the Council’s Allocation Scheme by a decision being taken to exclude them.

* 1. Where the Housing Choice Team assesses a risk of significant harm to a child or where a child is a witness to domestic abuse, they will, on the same day make a referral to Children’s Trust and the Police if and where appropriate. No parental consent is required for such a referral.

* 1. An applicant may be excluded from the Council’s Allocation Scheme if their behaviour is such they would make an unsuitable tenant and the behaviour could be cited as grounds for possession had they been an introductory tenant at the time the behaviour or incident took place. Behaviour such as failure to pay the rent, causing anti-social behaviour or particular criminal convictions may lead to an applicant being excluded.

* 1. There is a right to request a review on all decisions to exclude an applicant from the Council’s Allocations Scheme. A review should be requested to SMBC Homes Choice within 21 days of the date of the decision letter or the refusal of an offer made. A Review Panel will review the case and notify the decision to the applicant within 27 working days.

* 1. The excluded applicant can re-apply to the Allocation Scheme if and when they believe they will be a suitable tenant i.e. that a previous issue has been resolved or a proven track record has been established. The letter sent confirming reasons for exclusion may also indicate when it may be appropriate for the applicant to re-apply for housing.

* 1. Where the excluded applicant is a vulnerable family with children Housing Choice will seek the parent’s permission for a referral to Children’s Trust.

* 1. On receipt of a referral the Children and Families Services will acknowledge the receipt and ensure a ‘same day’ response is given to the young person with the Childrens Trust Teams (Family Solutions Team and Single Assessment Team working jointly together to ascertain the young person’s circumstances (needs and risks) and an appropriate intervention which may involve family mediation, reunification and prevention wherever possible. A Single Assessment will be completed, and this is usually completed within 35 working days however some assessments close much earlier according to individual’s circumstances. The result of the Single Assessment will be fed back to the Housing Choice within 3 working days of the assessment being completed.

# 4 Prevention

4.1 The LHA’s first duty under homelessness legislation is to try to prevent homelessness, and other statutory agencies are able to assist with prevention and mediation. Under the housing options approach, the procedure for households likely to be eligible and in priority need for homelessness assistance is now likely to be operated as a two-stage process, with options and prevention considered first, but with safeguards in place where a person is eligible for and requires assistance under homelessness legislation.

4.2 The Homelessness Code of Guidance states that local housing authorities should consider the possibility of family reconciliation, e.g. family mediation, for all 16 and 17-year olds (except those for whom Children’s Trust have responsibility).

4.3 The Homelessness Code of Guidance acknowledges that the process of reconciliation may take time; therefore the normal 33 working day target for completing inquiries may need to be extended.

4.4 If it appears that it might be unsafe for the young person to return to their last settled address because of violence or abuse, consultation must take place as soon as possible with Social Services and the police where appropriate. Their advice on whether attempts at reconciliation are appropriate must be taken into account.

**5 The Legislation**

# Children Act 1989

Section 17(10) of the Children Act 1989 defines that a child shall be ‘in need’ if:

1. 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;
2. 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.’

Section 17 also contains a general duty to safeguard and promote the welfare of children in their area who are in need by promoting the upbringing of children by their families and providing a range and level of services appropriate to those children’s needs. Such services may include the provision of accommodation (section 17(6)).5)

Section 20(1) requires a The Authority to provide accommodation to any ‘child in need’ who lacks suitable accommodation or care as a result of:

1. There being no person who has parental responsibility for him;
2. His being lost or having been abandoned;
3. 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.’ The Lords in G held that section 20(1)(c) includes a child who was excluded from his or her home. The 16 or 17-year-olds who are accommodated under section 20 are ‘looked after’ children. After a total of 13 weeks of being ‘looked after’ they become ‘eligible children’ and then, if they cease to be ‘looked after’ while under 18, they become ‘relevant children’. On reaching the age of 18 they will then become ‘former relevant children’.

Under the Children (Leaving Care) Act 2000 eligible, relevant and former relevant children are owed a range of duties by children’s Trust. Depending on the young person’s needs and status the duties can include accommodation, life skills, education and training, employment, specific support needs, and financial support. Some of these duties can extend until they are 21 years old, or even 24 if the child is undertaking training or education.

# Housing Act 1996

Section 188 of the Housing Act 1996 provides that:

‘If the local housing authority have reason to believe that an applicant may be homeless, eligible for assistance and have a priority need, they shall secure that accommodation is available for his occupation pending a decision as to the duty (if any) owed to him…’

The Homelessness (Priority Need for Accommodation) (England) Order 2002 (SI 2002/2051) provides that a child aged 16 or 17 who is not a ‘relevant child’ or owed a

‘section 20’ duty, and an 18/19 or 20-year-old (other than a ‘relevant student’7), who was looked after, accommodated or fostered at any time between the ages of 16 and 18 has a priority need for accommodation under the Housing Act 1996.

# 6 Guidance

The Government has issued guidance on how local authorities should carry out their duties under the above legislation in:

*Framework for the Assessment of Children in Need and their Families (Department of Health (DoH) 2000)*

*Local Authority Circular LAC (2003) 13, Guidance on Accommodating Children in Need and their Families*

*Joint Working between Housing and Children’s Services (Preventing homelessness and tackling its effects on children and young people),*

*Department of Children Schools and Families (DCSF), Communities and Local Government (CLG) (May 2008)*

*The Homelessness Code of Guidance for Local Authorities, CLG (July 2006).*

# September 2015