



THE ASSESSMENT OF HOUSING AND SUPPORT NEEDS OF YOUNG PEOPLE
AGED 16 & 17 (Homeless or likely to become homeless)

A Protocol for Joint Working

DATE: AUGUST 2019 (REVIEW AUGUST 2021)

“It is essential that services for homeless 16 & 17 year olds are underpinned by written joint protocols which set out clear practical arrangements for providing services that are centred on the young person, their families and prevent the young person from being passed from pillar to post”

(DCLG & DCFS Guidance 2010)

1. PURPOSE OF THIS PROTOCOL

The purpose of this protocol is to:

- Outline the roles and responsibilities within the protocol
- Facilitate greater coordination between services
- Ensure young people are not passed between departments
- Promote joint commissioning & strategic planning
- Standardise processes and procedures which are then easier to follow
- Enable young people to make informed decisions by giving them information about their entitlements and offering them an independent advocate
- Use available resources to best effect

2. BACKGROUND

Darlington Borough Council is committed to achieving the best possible outcomes for young people who turn to us for assistance. There have been a number of significant policy developments in the last decade to address youth homelessness. This reflects the clear recognition nationally of the disproportionately high numbers of young people becoming homeless, and the reduced life chances and poor health and well-being that ensue for too many 16 and 17 year olds and young care leavers.

Two House of Lords judgements (R (M) v LBC Hammersmith & Fulham (2008), R (G) v LB Southwark (2009)) have had a direct effect on how local authorities provide accommodation and support for homeless 16 and 17 year olds. These judgements have highlighted the primacy of the Children Act in responding to young single homelessness – this means that the majority of 16 and 17 year olds presenting as homeless should be deemed ‘children in need’.

Following these rulings it became essential that all local authorities have in place a clear and open framework for assessing the housing, care and support needs for vulnerable young people. The recent homeless review highlighted a need to review the protocol which Darlington Borough Council had in place as it was felt that it was not as clear and defined as the guidance suggested it should be.

Darlington Borough Council acknowledges the need to highlight the adverse effects which becoming homeless at any early age can have on a person and will utilise this protocol to underpin a way forward to reduce these impacts. The adverse effects were highlighted in the Communities and Local Government and Department for Children, School and Families’ publication, 2008.

Risk to Health:

- Increased emotional distress and mental health problems
- Estrangement or isolation from family and friends leading to reduced emotional support
- Substance misuse, including smoking and alcohol
- Poor diet due to living outside the family on a low income
- Increased sexual activity bringing the risk of pregnancy and of infections

Risk to Safety:

- Inappropriate accommodation such as B&B
- Being drawn into prostitution and sexual exploitation
- Involvement in anti-social behaviour or offending
- Failed accommodation placements or tenancies leading to 'intentional homelessness' decisions and exclusion by supported accommodation providers and landlord
- There is emerging anecdotal evidence of increased risk to young people in temporary accommodation, especially B&B, of being targeted for recruitment into gangs in areas where they are active.

Risks to enjoyment and achievement:

- Dropping out of, or being less likely to take up, education, training or employment
No longer participating in pastimes such as sporting and creative activities
Losing touch with friends and social networks

Risks to economic well being:

- Financial stress and poverty
Long term poverty and social exclusion when education, training or employment is disrupted

Darlington Borough Council acknowledges that the failure to prevent youth homelessness will inevitably have a longer term impact on the life opportunities of those affected. In addition to this, the financial impact on the Local Authority and partner agencies will also be greater.

This 16/17 joint protocol needs to be clearly understood and adhered to by all relevant staff across statutory services and partner agencies.

Darlington Borough Council's Children's Services have a leading role in the required response to alleviate the above impacts: statutory joint guidance to local authorities delivering social and housing services makes clear that the needs of young people aged 16 or 17 should be considered first and foremost under the Children Act 1989, and recognises that young people of this age who are homeless are "extremely likely" to be children in need under the terms of the Act. Nevertheless, in practice, the majority of young people in need in Darlington first approach the housing department for help with housing, so it is vital that the housing department and the children's services duty teams work closely together.

The contribution made by other teams and agencies to improving the range of accommodation and support options which we can offer and to longer-term outcomes for young people, must not be underestimated.

3. THE LEGAL FRAMEWORK

Darlington Borough Council's Children's Services have a leading role in the required response to alleviate youth homelessness: statutory joint guidance to local authorities delivering social and housing services makes clear that the needs of young people aged 16 or 17 should be considered first and foremost under the Children Act 1989, and recognises that young people of this age who are homeless are "extremely likely" to be children in need under the terms of the Act.

It is the expectation of central government that different parts of local government will forge proactive links to ensure they can comply fully with the interrelating pieces of legislation.

Children's Services Legislation Relevant to Housing

McQueen Ruling: 'This case is about the respective responsibilities of local authority children's and housing services towards children aged 16 and 17 who are unable to live with their families. In the end, it comes down to a short point of construction: what is meant by 'a child who is looked after by a local authority', as defined in section 22(1) of the Children Act 1989? But the clear intention of the legislation is that these children need more than a roof over their heads and that local children's services authorities cannot avoid their responsibilities towards this challenging age group by passing them over to the local housing authorities.'

Southwark Ruling: 'The human issue in this case is simple to state. If a child of 16 or 17 who has been thrown out of the family home presents himself to a local children's services authority and asks to be accommodated by them under section 20 of the Children Act 1989, it is not open to that authority instead to arrange for him to be accommodated by the local housing authority under the homelessness provisions of Part VII of the Housing Act 1996. A child, even one on the verge of adulthood, is considered and treated by Parliament as a vulnerable person to whom the state, in the form of the relevant local authority, owes a duty which goes wider than the mere provision of accommodation.'

Children Act 1989

Section 17 places a general duty on social services authorities to safeguard and promote the welfare of children within their area who are in need, by providing a range and level of services appropriate to those children's needs.

A child in need is defined as someone who is aged under 18 and:

- is unlikely to achieve or maintain a reasonable standard of health or development without the provision of appropriate services by a local authority; or
- whose health or development is likely to be significantly impaired or further impaired without the provision of appropriate services by a local authority; or
- who is disabled.

Section 17 (1) Children Act 1989 gives Children's Services departments the duty to assess the needs of children under 18 years old in their area and to make provision to meet these. "It shall be the general duty of every local authority (in addition to the other duties imposed on them by this Part) –

- (a) to safeguard and promote the welfare of children within their area who are in need; and
 - (b) so far as is consistent with that duty, to promote the upbringing of such children by their families,
- by providing a range and level of services appropriate to those children's needs."

Section 17(5) allows Social Service Departments (SSDs) to call upon other agencies to provide services on their behalf.

Section 20 (1) states that every local authority shall provide accommodation for any child in need within their area who requires accommodation as a result of:

- there being no person who has parental responsibility;
- being lost or having been abandoned;
- the person who has been caring for him/her being prevented from providing suitable accommodation or care.

Section 20(3) states that accommodation shall be provided for any child in need who has reached the age of 16 and whose welfare the authority considers is likely to be *seriously prejudiced* if they do not provide her or him with accommodation.

Section 20(5) A Local Authority may provide accommodation for any person who has reached the age of 16 but is under 21 in any community home which takes children who have reached the age of 16 if they consider that to do so would safeguard or promote his welfare.

Section 20(11) states that the provisions that

- prevent the Local Authority from accommodating children under s20 if the person with parental responsibilities objects; or
- allow a person with parental responsibility to remove from s20 accommodation

do not apply where a child has reached the age of 16 agrees to be provided with s20 accommodation.

Under **Section 27** of the Children Act 1989, a social services authority can ask a housing authority to help in delivering services for children in need. The housing authority must comply with such a request to the extent that it is compatible with their own statutory duties and other obligations. Department of Health (DoH) Guidance on the Act recommends that close liaison between social services departments and housing is necessary and may be best achieved through the establishment of formal arrangements.

Housing legislation relevant to children and young people –

Homeless Reduction Act 2017 alongside the Housing Act 1996 Parts VI and VII set out the legal framework for assisting homeless people and allocating housing.

Section 175 of the 1996 Act states that 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.

And

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

- 16 and 17 year olds whose support networks have broken down irrevocably
- and who are not owed a duty by social services as a *relevant child** or a child in need+;
- 18 to 21 year olds leaving care who are *former relevant children**,
- People aged 21 or over who are vulnerable due to being looked after, accommodated and fostered by the local authority, who are not relevant students; and
- people who are vulnerable as a result of violence, being in the armed forces or in prison

* See Children (Leaving Care) Act for definition.

+ See Children Act for definition.

Note Care leavers up to age 21 **may** have a priority need if they are vulnerable as a result of being in care.

Young offenders who have been in custody **may** also fall into this vulnerable category.

People with an enduring physical or mental illness may also be vulnerable as a result and in a priority need category.

The term vulnerable is defined by homelessness case law and is determined by assessment.

Section 191 A person becomes homeless intentionally if they deliberately do or fail to do something which causes them to lose their accommodation.

Section 185 A person is not eligible for assistance if they are a person from abroad who is ineligible for housing assistance, or they are subject to immigration control.

Section 193 Local authorities have a duty to secure accommodation if the young person is found to be eligible for assistance, in priority need and unintentionally homeless.

4. DESIRED OUTCOMES

Where it is safe to do so, we will work with and support a young person to remain at home within their family network, therefore preventing homelessness. A young person who is vulnerable, homeless and 16 or 17 will receive an efficient and seamless service which results in successful outcomes for them.

The desired outcomes from the effective implementation of this protocol are to reduce the number of young people presenting as homeless and in need of

emergency accommodation and/or coming into the care of the Local Authority. This will be achieved by:

- Early identification of those at risk of homelessness and provision of early intervention services to address this.
- Increasing the numbers of young people remaining, or returning to live, in their family home where it is safe and appropriate to do so.
- Improving relationships between young people and their families, whether or not the young people are able to live at home.
- Flexibility in the range of accommodation and support pathways that are available to work towards independent living for young people.
- Agreeing clear and planned support packages for all young people in need with named responsible people.
- Having a 'team around the young person' strategic group who will meet on a regular basis to monitor the progress of support plans and pathways.

5. PRINCIPLES UNDERPINNING THE PROTOCOL

Children's Law takes precedence over housing law in the case of homeless 16 & 17 year olds (2009 House of Lords V Southward Judgement).

- 1) Joint prevention activity is recognised alongside statutory responsibility
- 2) The determination of whether there is a safeguarding concern will form part of the initial assessments undertaken by housing and children's services. Any concern will be passed through to the CAP for further investigation
- 3) We will not assume that homelessness has been alleviated just because a young person is placed in supported accommodation
- 4) Information is provided to all young people who present as being in housing need of the options which are available to them. Young people are kept informed of progress and of the decisions made and are engaged in the whole process. Feedback from young people should be that they had a realistic understanding of the process they were involved in.
- 5) Parents of 16 and 17 year olds are ultimately responsible for their welfare
- 6) A homeless or potentially homeless young person will have a lead professional (LP) who will be supported by a Team Around the Young Person (TAYP). These professionals will meet to produce a multi-agency support plan which will be co-ordinated by the LP. (If the case is open to Social Care then the Lead

Professional will be the allocated social worker, if the case is not open to social worker then the case holder should be a member of the Early Help.

- 7) It is recognised that, although Bed and Breakfast accommodation is not suitable for 16 – 17 year olds, in some exceptional emergency circumstances young people will be accommodated in Bed and Breakfast accommodation to prevent street homelessness. This course of action should be agreed by a Head of Children Service
- 8) All young people known to Darlington Borough Council will be effectively transitioned through the years of 15 & 16 to reduce the chances of them becoming homeless. Where it is identified that the young person cannot remain in family home then they will be supported to move on in a planned and co-ordinated way. This work will be jointly co-ordinated by the Social Worker and Housing Options Officer, this should be agreed between both parties on who will lead on this piece of work.
- 9) **Prevention and Relief of homelessness work should be carried out alongside the assessment activity and should not delay the provision of accommodation or meeting of other statutory duties.**

As part of this Protocol, all 16 & 17 year olds who do not meet the threshold under Children’s Services, or who do not meet any other statutory duty under the Housing Act, will still benefit from a multi-agency response and prevention work will be undertaken to prevent homelessness from re occurring. This will need to be done jointly with the Social Worker & Housing Options Officer i.e. it could be mediation through the Homeless Commissioned Services or Early Help through Children Services.

6. THE PROCESS

All partner agencies have agreed on fundamental priorities to ensure this protocol is implemented and developed to best meet the holistic needs of vulnerable young people in Darlington.

All 16/17 year olds, and those leaving care, with a housing advice need, who are under the threat of homelessness, or, who are homeless, will be helped to achieve their aspirations and make a positive transition to adulthood.

The specific roles and responsibilities of the partner agencies are outlined below.

Young person presents to Darlington Borough Council as being homeless or as being at risk of homelessness:

Presenting to Customer Services

Customer services' to contact Children Access Point to request support from the Team and inform Housing Options Team.

Interview will be conducted by the Housing Options Advisor and Social Worker (if CAP worker is not available then it will be a Housing Options Advisor).

Interview (consisting of key fact finding) is conducted to determine why the young person has presented. (The fact finding would need to ascertain information which would be adequate to formulate the basis for a Children and Families Assessment).

Once the initial facts have been determined Mediation happens immediately with parents if this fails or it is deemed unsafe to do so mediation is sought with wider family members. Mediation is facilitated by whoever the young person has presented to initially unless an open case to Social Care when the allocated worker should undertake the task for assessment to ensure stability of the placement.

Open Cases to Social Care

Where the young person is an open case to Social Care then the Housing Options worker should speak direct to the allocated worker, the manager for the case or the duty worker for the team in which the social worker is based and meet with the young person.

Outcomes from mediation

- 1) Young Person is mediated back home or to wider family with immediate effect. contact should be made with Children Access Point and if required the young person will be referred to social care or to early help dependent on whether threshold has been met for statutory intervention or early help services
- 2) Young person is unable to find resolution with immediate or wider family and is requiring immediate accommodation – young person will be placed in appropriate and available temporary accommodation under the Children Act 1989 (this can include crash pads and supported accommodation)
 - Children's Services will commence Children and Families assessment of the YP's eligibility under section 20 and/or section 17 within 24 hours of accommodation.
 - Housing Options worker to partake in this joint assessment (if their assessment wasn't carried out before placement in the crash pad)
 - Young person will be made aware of their options i.e. becoming Looked After and will be offered an advocate via NYAS services

Outcome from Children and Families assessment

Young person is accepted as eligible under Section 20/S17 Children Act 1989 and is therefore deemed LAC

1) Eligible under Section 20 of the 1989 Children's Act:

This means that a social worker has assessed (and consulted with the Head of Service regarding the young person becoming looked after and should be booked into the next DARP panel for ratification of the placement) that a young person needs to be accommodated by Children's Social Care. The social worker should then proceed under the becoming looked after process

2) Eligible under Section 17 of the 1989 Children's Act:

This means that the Social Worker's assessment has found the young person to be 'in need'. Children's services must ensure that appropriate support is in place as required. This, for example, may include financial assistance or support to meet their emotional needs.

The Act defines a Child 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
- (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/she is disabled

Following the outcome:

- 1) Children's Services and Housing Options will work together to source suitable and appropriate accommodation in line with the YP's assessed needs and explore long term accommodation options with the Young Person if financial support is required then this should be presented to the DARP panel for consideration
- 2) If Supported accommodation is suitable to meet the needs of the YP through a joint decision between Children's Social Care and Housing then the young person will
 - move from the Crash Pad into the appropriate accommodation
 - Support and accommodation costs will be met through Homeless Commissioned Services *existing contractual arrangements* with DBC where contracts are in place.
 - Children's Services and the support provider draw up a joint support plan to ensure the assessed and eligible needs of the YP are addressed and met

- Children's Services will be responsible for ensuring that in addition to the support provider acting on this support plan, they hold regular joint planning and review meetings to ensure DBC are meeting their obligations under the Care Planning, Placement and Case Review Regulations 2010. Such reviews will include the holding of Looked After Reviews to ensure the needs of the YP are met and any actions are taken forward.
- 3) Where the joint decision between Children's and Housing deems that there is no available appropriate supported accommodation which will meet the needs of the YP then Children's Services will be responsible for sourcing and funding an alternative service. (Children's Should liaise at this point with the Children's Placement Officer and Children's Commissioning Manager and relevant Head of Service)

By virtue of being homeless, a young person is likely to be viewed as a Child in Need and therefore section 17, but on the rare occasion that this is not the outcome of the assessment:

Housing Options will determine whether the YP **is owed a Prevention or Relief duty** and notify the YP of their outcome. In normal circumstances a YP is likely to be deemed homeless and owed a statutory duty unless they are considered by Housing to be a 'relevant child' for the purposes of Section 23A(2) Children Act 1989

A 'relevant child' is a child:

- (a) aged 16-17; AND
 - (b) was a Looked After child:
 - i) for at least 13 weeks;
 - ii) after the age of 14; AND
 - (c) has been Looked After while they were 16 or 17; AND
 - (d) is no longer Looked After
- 1) **The YP will receive a Personalised Housing Plan outlining what will be done to Relieve or Prevent their homelessness. They will be provided with interim accommodation if needed. At the end of the 56 days Housing Options will determine if the YP is owed a Full Duty .**
- 2) Where a duty is owed Housing Options will determine the most appropriate move on accommodation from the Crash Pad into a longer term support/accommodation solution which meets their assessed and eligible needs.
- 3) A multi-agency meeting will be convened to determine what, needs to be provided due to the young person's eligibility under section 17 of the Children Act 1989.

This meeting will be led by Children's Services and will take place within 7 days of the YP being accommodated in a service post-crash pad. The aim of this will be to prevent homelessness re-occurring and to ensure that the YP will be supported by the relevant agencies to secure longer term accommodation once they have the necessary skills. This plan could take the form of a CAF.

- 4) Where Housing determine that the young person is 'intentionally homeless' and is not owed a duty then duty is discharged back to Children's Services.

