

**Joint Protocol to address the needs of  
Homeless Young People in West Berkshire**

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0.1	16/01/14	Original	
0.2	03/03/16	Reformatted and put into corporate Standard	
0.3	8/6/18	Amended to take into account new guidance and legislation	

**Related Documents**

<b>Reference</b>	<b>Title</b>	<b>Tier</b>
	Joint Protocol Application Form – March 2016	

## 1 Introduction

West Berkshire Council is committed to achieving the best possible outcomes for young people who turn to us for assistance. This protocol is an important part of our overall strategy for improving our response to young people who need housing – particularly important because it focuses on the first approach a young person makes to us, when a prompt, well-informed and seamless response is most necessary.

West Berkshire Children and Family Services (CFS) have a leading role in this response. Statutory joint guidance to local authorities delivering social and housing services was amended in April 2018 - 'Prevention of homelessness and provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation April 2018'. It builds on the 2010 guidance that sought to clarify the interrelationship between the duty under section 20 of the Children Act 1989 and the duties under Part 7 of the Housing Act 1996. The guidance was amended to reflect the new duties introduced through the Homelessness Reduction Act 2017.

It makes clear that section 20 Children Act 1989 duty takes precedence but also, that housing service have duties towards young people who are homeless or threatened with homelessness. *'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.'*

The contribution made by 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. These include the Family Safeguarding Teams; the Contact Advice and Assessment Service (CAAS) ; the Targeted Intervention Service; the 16+ and Care Leavers Team; Youth Offending Team; The Edge; Housing Options Team; voluntary agencies and housing providers who will be involved with our procedures and strategies, and who provide many of the services on which we depend.

The protocol has been developed by the West Berkshire Young Person's Housing Strategy Group, which will continue to review the effectiveness of the protocol and influence Homelessness strategy.

The protocol like the guidance does not address the wider responsibilities of the Children and Family Service. It is solely concerned with the functions of the Children and Family Services and housing services when young people seek help from, or are referred to, the local authority because of homelessness or being threatened with homelessness.

The Protocol will be based on definitions contained in the Children Act 1989 and its amendment, The Children (Leaving Care) Act 2000, Part VII of the Housing Act 1996 and its revision, The Homelessness Act 2002, the Homeless Reduction Act 2017 and the guidance regarding Prevention of homelessness and provision of accommodation for 16 and 17 year old young people who may be homeless and /or require accommodation (April 2018).

## 2 Key principles

We share a number of principles and beliefs about young people and their transition to independent adulthood and acknowledge the importance of young people having the right accommodation at the right time if they are to succeed in this transition

- In most cases it is recognised that young people are better off if they remain in the care of their parents until such time as they are ready to become independent. The Family Group Conferencing Team are able to offer a service to young people and their parents to prevent the young person either becoming or remaining homeless as a result of conflict or tension at home.
- The experience of homelessness is damaging to young people and to their life chances: the statutory joint guidance 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*”;
- Bed and breakfast accommodation is not suitable for use by CFS or the Housing Department’s Housing Options Team to accommodate 16 and 17 year old young people: this principle is re-emphasised by the statutory joint guidance;
- Young people should be given every opportunity to have a realistic understanding of the options available to them, and to make informed choices about their future. They should always be offered an advocate. (Here4Me – Action For Children- provide this service for children who are being assessed and/or have an allocated social worker in West Berkshire)
- Parents of, or those with parental responsibility for 16 and 17 year olds are responsible for their children’s welfare.

We are also committed to a number of principles in putting this protocol into practice:

- A young person in crisis should receive a practical and immediate response from whichever agency they first approach;
- All agencies should be open and straightforward with young people and their parents and carers, both about the service which they can offer, and what other agencies’ roles and capabilities are;
- Agencies will share information about a young person and their family, subject to the proper consent of the young person and their family;
- Housing Options and CAAS duty teams should collaborate during the assessment process;
- The availability or otherwise of suitable accommodation or support must not influence the determination of statutory duties under the Children Act 1989;
- Once potential duties are determined, CAAS and Housing Options should work together, in consultation with the young person, to agree the way forward which: stands best chance of being sustainable by the young person, and offers the best achievable basis for them moving on to independent adulthood (which may include returning to the family home or living with extended family), and makes best use of the two Services’ combined resources of accommodation and support.

### **3. Statutory context**

In April 2018 the, the Department for Education and Ministry of Housing, Communities and Local Government published joint statutory guidance to Children’s Services and housing authorities: *Prevention of Homelessness and 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, Housing Act and Homelessness Reduction Act for 16 and 17 year old young people who are homeless and forms the primary context for this protocol.

The joint statutory guidance gives clear direction on the complementary roles of Children and Family Services and the Housing Team in implementing their separate statutory roles. A fundamental principle of the Joint Guidance is that all 16 and 17 year olds who present themselves as homeless to either a local housing authority or a Children and Family Services, should be assessed by Children and Family Services under the Children Act 1989 to determine whether they are a child in need and, if so, whether a duty exists to offer accommodation under section 20 of the Children Act 1989.

#### **4 Children and Family Services' Duties**

Where a 16 or 17 year old seeks help from CFS, or is referred to CFS by some other person or agency as appearing to be homeless or threatened with homelessness, CFS must carry out an assessment of what duties, if any, are owed to them. **This applies to all young people, including 17 year olds who are approaching their 18th birthday, and young people who are pregnant or have children in their care.** Where the duty in section 20 of the 1989 Act is triggered the local authority are under a duty to accommodate the child.

If the young person is at risk of becoming homeless in the future, for example because of conflict within the family home, it will be for CFS to determine what support is required depending on the circumstances and the needs of the young person and their family. Where there is no immediate threat of homelessness intervention may be more appropriately led by CAAS or the Targeted Intervention Service, whereas if there is an imminent threat of homelessness or if the young person is actually homeless, a child in need Single Assessment must be carried out and the child accommodated under section 20. If a young person who presents as homeless already has an allocated worker, subject to a Child in Need or Child Protection plan, this work will be done by the allocated worker. If the young person who is looked after by West Berkshire Council presents as homeless this is actually deemed a placement breakdown and there is a clear duty to provide accommodation, working to save the existing placement or find an appropriate alternative and separate procedures cover this eventuality.

Homeless young people who are unaccompanied asylum seekers (UASC) without a parent or guardian with responsibility for their care, and other non UK nationals who are not 'eligible' for assistance under homelessness legislation must also be provided with accommodation and support by the Children and Family Service, but will not require referral to a local housing authority. West Berkshire Council provide specific emergency supported lodging placements for these children if their specific placement requirements need to be assessed.

Young people aged 16 or 17 are still children and as such, all agencies have duties and responsibilities to act together to protect them if they are suffering, or likely to suffer, significant harm. The protocols of the Berkshire Child Protection Procedure, (see <http://berks.proceduresonline.com/index.htm>) apply to such young people.

Where a 16 or 17 year old seeks help or is referred, and it appears that they have nowhere safe to stay that night, then CFS must secure suitable emergency accommodation for them under section 20 of the 1989 Act, whilst their needs, including their need for continuing accommodation and support, are further assessed. In West Berkshire there is a specific emergency provision at Bramlings

House where a child (16-17 years old) can be placed for up to 10 days whilst their needs are assessed.

The guidance states that where a young person in need requires accommodation as a result of being accommodated for more than 24 hours by CFS the young person will become looked after and the local authority will owe them the duties that are owed to all looked after children. Once they cease to be looked after they will be owed the duties of care leaver under that Act. Whilst accommodated under Section 20 the young person will not be eligible for welfare benefits, including housing benefit or housing costs under universal credit. CFS will have the duty to maintain them.

There are only two circumstances in which a homeless young person should not be accommodated under section 20 and may instead be owed a duty under the Housing Act 1996

These are where the young person is:

- a. not a child in need
- b. 16 or 17 year old child in need who, having been properly and fully advised of the implications and having the capacity to reach the decision, has decided they do not want to be accommodated

It is important that the young person's wishes and feelings are central to the assessment and decision-making. Where a young person says they do not wish to be accommodated the local authority should reach the conclusion that the children's wishes are decisive only as part of an overall judgement of their assessed welfare needs and the type and location of accommodation that will meet those needs. In these cases legal advice will be sought to discuss the child's capacity to make this decision.

Young people should have access to an independent advocate and support in weighing up the advantages and disadvantages. In West Berk this service is provided by Here4Me. CFS should ensure that the young person has accurate information about what assistance is available to them. If the young person is not subsequently accommodated by Housing Options and remains homeless, Housing Options must inform CFS who may need to take further action.

CFS have the power to accommodate children under sec 17 of the 1989 Act. A young person provided with this accommodation would not be looked after and so there would be no corresponding duty under the 1989 Act. However the guidance is clear that the provision of accommodation under sec 17 will almost always concern children needing accommodation with their family .

In very limited circumstances the provision of accommodation of sec 17 may be appropriate – where the young person has refused sec 20 but are subsequently not owed the main accommodation duty by Housing Options (e.g. they have refused an offer of suitable accommodation).

If the young person is deemed to have capacity to make the decision not to be accommodated sec 20 they can be offered accommodation under sec 17 until they no longer require it or reach 18. In such cases CFS and Housing Options will need to work together with the young person to ensure that they are not placed at risk of homelessness as they approach 18.

Every 16 – 17 year old assessed as being a child in need but who does not wish to be accommodated under sec 20 should have a child in need plan setting out the services that will be provided to meet their needs.

#### Duty to refer to housing services

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.

This duty applies where the service user is 16 or 17, as well as to other households. If the young person approaches, or is referred to CFS they must obtain their consent before a referral can be made to the housing authority. This consent should be obtained through an informed conversation with the young person through which they are able to understand the duties owed by CFS and what they should expect to be the outcome of a referral to housing services. CFS need to consider the use of the Here4Me advocacy service to ensure the young person fully understands the information.

If a referral is made to Housing Options, or another local authority's housing department, CFS 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 CFS or another local authority's children services the two services should work together to ensure that the needs of the young person are met.

**The referral does not diminish CFS's responsibilities** towards young people, rather it should be used to help strengthen communication between CFS and the relevant housing service, it will not be an alternative to carrying out a child in need or early help assessment. It is recommended that CFS and the relevant housing services agree how they will use the referral arrangements as part of the process of agreeing joint protocols including what type of information CFS should provide and how the relevant housing authorities will respond. Consideration should also be given to how data generated by the referral process can be used to build a shared understanding of youth homelessness in the area.

#### **5 Housing Team's Duties**

New duties towards people that are homeless or threatened with homelessness can be found within Part 7 of the Housing Act 1996 by the Homelessness Reduction Act

These include duties to:

- Undertake assessments
- Develop personalised housing plans and

- Take reasonable steps to prevent homelessness or relieve homelessness

Young people who are eligible and homeless or threatened with homelessness must have an assessment of needs. This must include:

- The circumstances that have caused them to be homeless or threatened with homelessness
- Their housing needs and what accommodation would be suitable for them, their household and anybody who may be reasonably expected to live with them and
- The support that would be necessary for them and anybody who will be living with them to have and sustain suitable accommodation

If a young person is not homeless but is threatened with homelessness within 56 days, a prevention duty will be owed irrespective of whether the young person is likely to have priority need.

In these cases a referral should always be made to CFS

A Personalised Housing Plan must be prepared and whilst this is underway emergency accommodation must be provided. The question of whether further duties are owed under Part 7 of the 1996 Act in part depends on the outcome of the outcome of the Single Assessment carried out by CFS and whether any duty is owed under sec 20 of the 1989 Act

Housing Options should seek to work with CFS throughout the process of assessment, planning and attempting to prevent or relieve homelessness so that the child in need assessment and the homelessness assessment and the resulting plans and actions are co-ordinated

### Intentional Homelessness

Housing Options should take particular care when assessing whether 16 – 17 years olds are to be considered intentionally homeless from their family or from accommodation provided for them. For an applicant to be intentionally homeless the actions or omissions that led to them becoming homeless must have been deliberate. A homeless 16-17 year old might not have the ability to understand the consequences of their actions and choices that would have been expected of an adult.

For a young person to be found intentionally homeless they must have ceased to occupy accommodation that it would be reasonable for them to continue to occupy. During the prevention or relief stage the accommodation must have been offered under the reasonable steps provisions and not as interim accommodation under Section 188 of the 1996 Act.

If for whatever reason a young person is found to have become homeless intentionally Housing Options must inform CFS immediately (see also Chapter 9 of the Homelessness Code of Guidance).

### Young people from one district who seek assistance from housing services in another district

Housing Options may choose to refer applicants who are homeless and eligible for services to another housing authority under certain circumstances. Referrals can only be made if the person **does not** have a local connection to the area they have

applied to; they do have a local connection in the area they are to be referred to; and they would not be at risk of violence or the threat of violence in the area they are referred to.

In deciding whether or not to refer a young person to another district where they may have a local connection, Housing Options should consider a range of factors, including safeguarding or any risk of significant harm to the young person. In order to ensure that decision making is informed by relevant information, Housing Options should seek consent to discuss a referral to another authority with relevant children's services, both CFS in West Berkshire and children's services in the area they are minded to make a referral to.

Further guidance on local connection and referrals to other authorities is available at chapter 10 of the Homelessness Code of Guidance.

The CFS team undertaking the child in need assessment should be consulted prior to any decision to refer a homeless 16 or 17 year old to another district to ensure that due consideration is given to their safety and welfare

## **6 Young People in Custody**

The Youth Offending Team, CFS and (wherever appropriate) Housing Options should work together to ensure effective arrangements are in place to identify young people in custody who may be at risk of homeless on release. Services should cooperate, where appropriate, to ensure that young people can live with parents or guardians, or another appropriate adult, when they leave custody, for example through provision of family mediation, Family Group Conferences or other family support.

Resettlement planning will begin at the start of a sentence, and continue throughout the young person's time in custody. Suitable accommodation and support placement should be arranged in good time.

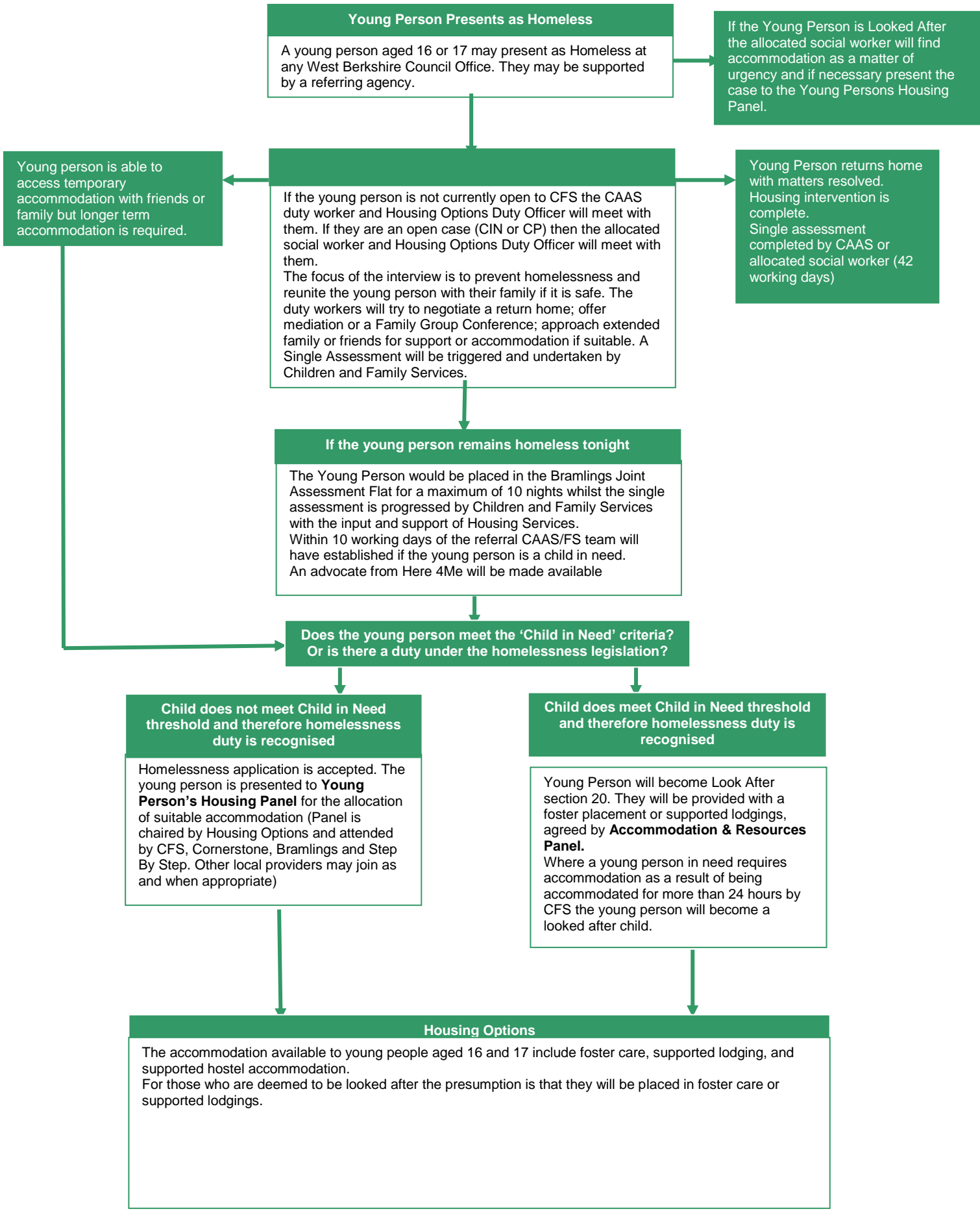
CFS have a duty to accommodate young people who were looked after or relevant children when they entered custody, or have become a relevant child by virtue of having been remanded into local authority care for 13 weeks or more, if they require accommodation on release.

A young person who is not already a looked after or a relevant child and may require accommodation on release must have a child in need assessment to determine what duties are owed under the 1989 Act, including whether CFS will have a duty to provide accommodation under section 20. If the young person will not be accommodated under section 20, for example because, having been fully informed of the consequences of their decision, they have declined to become looked after, a referral should be made to Housing Options and an assessment made by CFS of whether they are a child in need under section 17 of the 1989 Act.

## **7 West Berks Joint Assessments Process**

The flowchart showing this process is attached below.





Annex: Factors to be considered by children's services when assessing 16-17 year olds who may be children in need

	<b>Dimensions of need</b>	<b>Issues to consider in assessing child's future needs</b>
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?
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.