

Homeless 16-17 Year Olds Joint Working Protocol



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Statement of Purpose

This policy is intended to ensure Gloucestershire's response to youth homelessness is Young Person centred, preventing young people being passed from one agency to another. This document will clearly identify the role of each agency in line with their statutory responsibilities which have been reaffirmed by case law and create an agreed and robust process aimed at finding solutions.

Where it is safe and suitable to do so and in line with government guidance, the expectation will be that these young people should be supported to remain within the family wherever possible.

Statement of commitment

All signatories to this document commit to upholding the processes outlined within the Protocol. Where a young person presents to any organisation signed up to this protocol, they will be treated with respect and not passed to another agency until they have been assessed as having suitable accommodation and/or appropriate appointments have been made.

Partners commit to working together to seek the best possible outcome for each individual young person. We pledge to work with the young person to resolve their housing difficulty whether this is returning home, emergency accommodation or planned move, but request acknowledgement that the young person or agency may not get the outcome they would ideally wish for.

We commit to working professionally, openly, and flexibly to achieve the aims of the protocol.

We commit to respecting the professional position of our partners, even where it conflicts with our own, and will work to resolve such conflicts quickly and appropriately within the terms of this Protocol

Each agency commits to ensuring that its staff and officers are aware of and understand the terms of the Protocol, including its aims and objectives, and will ensure that the appropriate timely training is given to new staff to assure its effective operation.

Introduction

Gloucestershire County Council and the district councils recognise their responsibilities towards homeless young people aged 16 and 17.

The purpose of this protocol is to ensure that all the partners within Gloucestershire continue to work together to provide a consistent and co-ordinated response to 16- and 17-year-old young people who present as homeless and are in need of housing or housing related support.

It promotes the safeguarding and wellbeing of the young person to prevent homelessness, returning young people to their family wherever possible unless there is evidence to the contrary, the starting point should be the children and young people's needs should be met by their immediate families. Every effort should be made to reconnect young people and their families to negotiate a return home where it has been agreed by Children's Services that it is safe do so. This may require support to explore the wider family members and community options.

The protocol outlines the service expectations in relation to how partners respond to young people aged 16 and 17 years old and aspires to achieve co-ordinated services for these young people.

This protocol has been developed and agreed by Gloucestershire County Council and the six local Housing Authorities, (Gloucester City Council, Cheltenham Borough Council, Stroud District Council, Tewkesbury Borough Council, Forest of Dean District Council and Cotswold District Council)

The primary objectives of this protocol are:

- To prevent homelessness wherever possible
- To create, as far as possible, a seamless and universal service for young people facing, or at risk of homelessness across the County. Wherever the young person presents they should receive the same level of service.
- To contribute towards a flexible, speedy, responsive service to young people in Gloucestershire with both housing and social care needs
- Ensure all agencies fulfil their statutory responsibilities
- Where necessary, to provide temporary accommodation while more permanent plans are made

The protocol outlines the legal responsibilities of each agency under specific legislation and identifies their roles in the provision of accommodation for young people. It also sets out the agreed process for access to emergency accommodation for young people. This protocol also recognises the contribution of the Youth Accommodation network providers, a commissioned service. They are key to provision of appropriate accommodation, advice and support to this group of young people. It should be recognised that processes outlined in this protocol are

not exhaustive and that many organisations also have discretionary powers that they may wish to use in meeting the aims of this protocol.

The **Gloucestershire Supporting People Strategy** sets out that Gloucestershire County Council's commissioning intentions for community and accommodation-based support are to commission services which promote an individual's capacity to sustain an independent life. Services for young people at risk include accommodation and community-based support services that contribute to delivering the wider strategic aims of Gloucestershire and promote the wellbeing of young people who are homeless or at risk of homelessness.

Case Law

- In G v Southwark [2009], the Housing of Lords confirmed that homeless young people ages 16 or 17 will NOT be in priority need by virtue of being 16 or 17, if they have been assessed by Children's Services as a Child in Need.
- The 2018 joint guidance states in para 3.13 there are only two circumstances in which a local authority might find that a homeless young person should not be accommodated under Section 20 and may instead be owed duties under Housing Act 1996. These are where the young person is:
 - a. not a child in need;
 - b. a 16- or 17-year-old child in need who, having been properly and fully advised of the implications and having the capacity to reach a decision, has decided that they do not want to be accommodated under section 20.

<https://www.gov.uk/government/publications/provision-of-housing-for-16-and-17-year-olds-who-may-be-homeless-and-or-require-housing>

It will therefore be crucial to ascertain the outcome of Children's Services Single Assessment before making a decision on that 16- or 17-year old's homelessness application, in order for full consideration to be given to whether that 16- or 17-year-old is in priority need by virtue of their age.

Presentation to District/Borough Council Housing Departments

Information – Young people must be given realistic and full information about the support they could receive during the initial meeting to help them make a fully informed decision. This must include information, section 17, Section 20 Leaving Care and assistance under Part 7 of the 1996 Housing Act, as amended. Staff will be trained to understand the different legislation and how it affects young people.

District/Borough Presentation

Referral to Children's Services – Where a 16/17-year-old has additional needs, is homeless or is threatened with homelessness within 56 days, the housing officer will obtain consent from the young person and will refer on day one to the Children's Helpdesk completing a Multi-Agency Referral Form, (MARF) making it clear they are requesting an assessment under Section 17 of the Children Act and that this young person is homeless or at risk of homelessness

Reconnection – Work must take place alongside the MARF to establish reconnection to immediate or extended family. If the Homelessness Officer has reason to believe there are safeguarding issues, they should discuss this with their line manager to determine if further support from Children's Services is required.

Emergency Accommodation – If the young person is presenting as homeless the housing officer will consider and confirm there are no other options for suitable accommodation with family or friends and identify alternative suitable accommodation i.e. Crashpad, to ensure they are safe pending the assessment by Children's Services. Both agencies will communicate on planning and support and will continue to reconnect the young person with family or other networks for longer term accommodation to minimise the time needed in emergency accommodation.

Children's Services

The duty to refer: Regulation 10 of The Homelessness; (Review Procedure etc.) Regulations 2018 under The Homelessness Review Act specifies:

If a public authority considers that a service user may be homeless or threatened with becoming homelessness within 56 days, or if a service user positively discloses this information, the public authority will be required to ask if they would like to be referred to the local Housing Authority of their choice on the grounds that that they are homeless or at risk.

If the individual consented to a referral, the public authority will be required to make the referral, notifying the identified Housing Authority of the reason for the referral and how the individual may be contacted.

New enquiries to Children's Services

Information – Young people must be given realistic and full information about the support they could receive at the start to help them make a fully informed decision. This must include information Section 20, Section 17, Leaving Care, and assistance under Part 7 of the 1996 Housing Act, as amended. Staff will be trained to understand the different legislation and how it affects young people.

If they are homeless Children's Social Care will start an assessment on day one and will notify the local housing authority of the referral.

If the young person is open to a social care team, they have a duty to refer the young person to the local housing authority where the young person is threatened with homelessness. Where homelessness is imminent or actual:

- Early Help can step-up a case to Children's Social Care and notify the local housing office via Duty to Refer, a statutory requirement for statutory services, and email if necessary, depending on urgency for accommodation with consent.
- Safeguarding and Assessment Teams should commence an assessment and complete Duty to Refer with consent to local housing authority
- Youth Justice Teams should complete a MARF and Duty to Refer with consent to both agencies

Accommodation under Section 20 – If there is an imminent threat of homelessness or if the young person is homeless an assessment must be started on day one. If accommodation is required due to homelessness this can be provided under section 20. There are only two circumstances in which a children's services authority might find that a homeless young person should not be accommodated under section 20 and may instead be owed duties under Housing Act 1996. These are where the young person is:

- Not a child in need
- A 16/17-year-old child in need who, having been properly and fully advised of the implications and having the capacity to reach a decision, has decided that they do not want to be accommodated under section 20. This could be part of a joint meeting with LHA and social care.

Bed and Breakfast accommodation, as defined in the Homelessness, (Suitability of Accommodation), (England) SI 3326 2003, is not deemed to be a suitable temporary accommodation option for 16/17-year-olds even on an emergency basis, (Homelessness Code of Guidance, C17, 17.39

Section 20 of the Children Act also requires that:

Before providing accommodation under this section, a local authority shall, as far as is reasonably responsible practicable and consistent with the child's welfare:

- Ascertain the child's wishes and feelings regarding the provision of accommodation and
- Give due consideration (having regard to their age and understanding) to such wishes and feelings of the child as they have been able to ascertain.

Children's Services Assessment

During an assessment where a return home is not immediately viable, Children's Social Care will make an interim decision on day one as to whether a duty is owed under section 20 and seek permission from the Entry to Care Panel where this is required. The young person will still need to be referred to the Commissioning Hub for accommodation to be secured and a P1/P2 should be completed.

If the young person is accommodated under S20 Children's Social Care will take the lead.

Children's Social Care process to determine if a young person is offered accommodation under S20

- SW will complete a holistic assessment and makes recommendation to their Team Manager
- Team Manager will notify HOS and Entry to Care Panel to seek permission to bring young person into care.
- Children's Services will inform the young person clearly stating the reasons behind the decision and what support is in place/available if a service is not offered.

There will be young people who state they do not want to become "looked after", in which case Children's Social Care will, taking the young person's wishes into account and determine whether the application of S20 is appropriate. All discussions regarding this need will involve communication with colleagues in the housing offices. Young people who indicate that they do not want to become "looked after" should also be aware that they can request a re-assessment at a later stage if they revise their decisions and decide that they would now consider becoming a looked after child. Young people should be asked if they would like an independent advocate to help them make an informed decision.

Every 16/17-year-old assessed as being a child in need but who does not wish to be accommodated under section 20 should be offered a child in need plan detailing out the services that will be provided to meet their needs.

Homelessness Application

Children's Social care will work with colleagues in the local Housing Authorities for further assessment under the Homelessness provisions of Part 7 Housing Act 1996 as amended.

Where S20 criteria is not met or has been declined by the young person and they do not want a service from Social Care, but they require accommodation the housing authority will discharge their duties under homelessness legislation.

- Prevention duties apply to those that are eligible and threatened with homelessness within 56 days
- Relief duties apply to those who are eligible and homeless immediately or within 56 days. This requires the council to take reasonable steps to help the

applicant secure suitable accommodation. The applicant is entitled to an assessment of their needs which must be confirmed to them in writing along with a Personalised Housing Plan which sets out the actions that both the applicant and the Council will take to find accommodation. There is no duty to the Council to provide any sort of accommodation under the Relief Duty unless they are in Priority Need.

After 56 days, if a person remains homeless then a final decision will be made as to whether the housing authority owes a main housing duty, otherwise no further duty owed.

Where a young person is unwilling to return home, this will mean they will not be regarded as homeless under the 1996 Act, however it is at the discretion of the housing authority to use crash pad or Nightstop on a case-by-case basis considering the vulnerability of the individual, and efforts will continue to reconcile the family.

Out of Hours

- EDT, (Emergency Duty Team), EDT will cover all out of hours emergencies. If necessary, they will secure overnight accommodation for young people presenting as homeless after hours.
- EDT will ensure Children's Social Care and/or Housing Authority are aware of the young person accessing the service the next working day passing on information about where the emergency accommodation is and details of the young person and provider
- EDT can access edge of care support out of hours to help facilitate a young person to be able to remain at home or with extended family until a support plan can be put in place.

16- & 17-year-olds from out of area

16/17-year-olds from an out of area authority that seek assistance from Children's Services in another local authority area should not be returned and Children's Service must consider the young person's immediate needs. The duty falls on the authority area where the young person is requesting assistance.

If during assessment it becomes clear that the young person has no local connection to Gloucestershire the decision may be made by Children's Social Care to return these young people to their home area provided that it is safe to do so. Enquiries should be made by Children's Social Care with the "home authority" for them to take over the assessment of their needs. Homeless young people should not be returned to another area where there is no confirmation that accommodation is available to them.

If a young person refuses to return to where they are originally resident Children's Social Care must consider, the child's wishes and feelings and deal with the case as they would if the person was from the local area.

Escalation Stages

Front line staff should be aware that it is everybody's responsibility, including their own to work together to implement this protocol for the benefit of the young people concerned. However, it is recognised that from time to time they may not be able to resolve the issues between the agencies and may need to escalate problems through the appropriate line management.

- Stage 1 Housing Team Leader and Children's Social Care Advanced Practitioner discuss the issue
- Issue discussed and resolved
- Dispute not resolved escalate to stage 2
- Stage 2 Housing Team Manager and Children's Social Care Team Manager discuss the issue
- Issue discussed and resolved
- Dispute not resolved escalate to stage 3
- Stage 3 Escalate to Housing Team HOS, Children's Social Care Service Manager / HOS and Safeguarding / Commissioning Manager
- Discussion between all present
- Dispute resolved

When dispute remains unresolved the partnership group with reviewing the protocol and its effectiveness take the dispute to the strategic partnership group for oversight and decision making.

Monitoring the Protocol and Review

Review this protocol at half yearly meetings to be agreed and report back to HOS on what is working well and any issues to resolve.

The protocol will be reviewed annually and when changes in legislation determine.

This meeting is to solely to enable partners to monitor and review this protocol.

Appendix 1

Statutory and Legal Guidance

Legislation and Statutory Guidance

This protocol sets out the legal duties set out in the 1989 Children Act relating to children in need who require accommodation and Part VII of the 1986 Housing Act, as amended relating to people who are homeless or threatened with homelessness who approach either authority requesting housing assistance and reflects the judgement made by the House of Lords in (G) v Southwark and the statutory guidance updated in April 2018 issued by the Secretary of State for Education and the Secretary for State of Housing, Communities and Local Government, '*Prevention of homelessness and provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation*'.

Legislation and statutory guidance are clear that:

- the primary responsibility for a child in need who requires accommodation, including a 16- and 17-year-old who is homeless lies with the relevant children's services authority. The duty under Section 20 of the 1989 Children Act takes precedence over duties in the 1996 Act in providing for children in need who require accommodation

- Section 20 of the 1989 Children Act takes precedence over the general duty owed under Section 17 of the same Act to children in need and their families where a young person needs to be accommodated.

Local authority duties for accommodating young people under this s20 are not simply for local policy. The duty is engaged wherever a child in need in the local authority's area requires accommodation because of one of the factors set out in section 20(1) (a) to (d) or in section 20(3) and 20(4).

Section 20(1) requires that:

- Every local authority should provide for any child in need within their area who appear to them to require accommodation because of:
- There being no person who has parental responsibility for them
- Their being lost or abandoned; or
- The person who has been caring for them is prevented, (whether permanently, and for whatever reason), from providing them with suitable accommodation or care.

In addition, even if the criteria in section 20(1) do not apply, section 20(3) requires that:

Every local authority shall provide accommodation to any child in need within their area who has reached the age of 16 and whose welfare the authority consider is likely to be seriously prejudiced if they do not provide them with accommodation.

Section 20(4) provides that:

A local authority may provide accommodation for any child within their area, (even though a person who has parental responsibility for them is able to provide them with accommodation), if they consider that to do so would safeguard or promote the child's welfare.

If a young person in need requires accommodation because of one of the factors set out in section 20(1) (a) to (d) or section 20(3) and (4) then that young person must be provided with accommodation.

As a result of being accommodated by children's services for a continuous period of more than 24 hours the young person will become looked after if they consent.

Whilst accommodated under section 20 the young person is not eligible for welfare benefits, including housing benefits or housing costs under universal credit.

The lead agency is Children's Social care however housing services also have duties towards young people who are homeless or threatened with homelessness. Duties owed by both services will depend on a range of factors requiring them to work together to plan and provide a service centred on young people and their families.

Homeless or Threatened with Homelessness

A person is threatened with homelessness if they are likely to become homeless within 56 days

A person is homeless if they have no accommodation that is available to them for their occupation that they have the right to occupy, and which is reasonable for them to occupy.

The Housing Act 1996, Part VII, as amended, most recently by the Homeless Reduction Act 2017, sets out the homelessness legislation. Housing authorities have a duty to provide advice and assistance to eligible homeless households or those threatened with homelessness. In some cases where the local authority believes the applicant has priority need this extends to the provision of accommodation.

Housing Authorities should intervene earlier and support all those affected, not just priority need to:

Provide information and advice on homelessness, prevention, and rights

Where they believe a person is homeless or at risk of homelessness to enquire whether a duty is owed under Part 7 of the 1996 Act.

- To prevent homelessness within 56 days which includes:
 - Help to stay in current accommodation
 - Find new accommodation prior to becoming homeless
- Relieve homelessness by providing support for 56 days for those who are actually homeless
 - Helping to secure accommodation
 - Providing interim accommodation prior to becoming homeless

- Agree a Personal Housing Plan, following assessment, including reasonable steps/actions for the applicants and housing authority to take to relieve homelessness
- Main Housing Duty for those that are:
 - Eligible
 - In priority need
 - Not intentionally homeless

Duty ends (discharged) when:

- The duty to provide temporary accommodation remains until such time as the duty is ended, either by an offer of settled accommodation or for another specified reason.

Intentional Homelessness as a result of a deliberate:

- Action – deliberately does anything in consequence of which he or she ceases to occupy accommodation, e.g., a decision to leave accommodation where it was reasonable to continue living there, or by behaving in a way which leads to them being asked to leave
- Omission – non-payment of rent where the rent was affordable

If in priority need and intentional, advice and assistance to find accommodation will be given and accommodation provided for a “reasonable” period of time.

Appendix 2

An outline of the Joint Assessment Process is shown below. If required emergency accommodation should be provided as soon as possible and not be affected by whether the assessment has taken place or been concluded. The outcome of the assessment following the young person making an informed decision should be clear and well documented.

Process Mapping 16/17-Year-Old Homeless Young People	
Is the young person homeless today?	
Social Care	Local Housing Authority
<p>Yes – explore options to keep them safe with extended family and friends.</p> <p>Notify LHA and complete Duty to Refer with Consent to LHA Day 1</p> <p>If nothing suitable is found and there are no other alternatives, they must be accommodated under sec 20 whilst the single assessment is carried out.</p> <p>Request for the yp to be bought into care is made to team manager and P1 and P2 completed with request to HOS and Entry to Care Panel for yp to be bought into care.</p> <p>No- commence single assessment, notify LHA and complete Duty to Refer with consent. Day 1</p> <ul style="list-style-type: none"> • SW to contact LHA to arrange joint assessment within 5 working days 	<p>Yes – Explore options to keep them safe</p> <p>Notify social care completion of a MARF to Children’s Helpdesk Day 1.</p> <p>If able secure accommodation with family or friends’</p> <p>Or suitable temporary accommodation should be sought pending social care’s single assessment</p> <p>No MARF to be completed to children’s social care</p> <p><i>The assessment can take up to 45 days but in the case of homelessness there needs to be a quicker response, particularly for the housing element 3.34</i></p>

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<p>Social worker to notify LHA of date for joint assessment.</p> <p>Young person informed of all options including sec 20 care</p>	<p>LHA notified of joint assessment arrange video link to join accommodation via LHA agreed referral to START is submitted for supported housing</p>
<p>Young person makes informed decision</p> <ul style="list-style-type: none"> • Refuses sec 20 care, inform LHA of their decision and agree handover. Ensure recording reflects this decision. START form to be completed for supported accommodation and assistance to apply for Universal Credit. Young person to be supported pending START accommodation being offered. • Agrees to be accommodated under sec 20 or is eligible, permission sought to bring young person into care. • Permission received to bring young person into care, he/she becomes looked after child 	<ul style="list-style-type: none"> • Part 7 concludes accommodation via LHA agreed • Provision of suitable temporary accommodation to be sourced, <i>Bed and Breakfast accommodation, as defined in Homelessness (Suitability of Accommodation) (England) SI 3326 2003, is not deemed to be a suitable temporary accommodation option for 16- and 17-year-old even on an emergency basis (Homelessness Code Of Guidance, CH17, 17.39)</i> • START application completed with young person and submitted to START chair • Record on housing system for HCLIC data and that DTR's from Children's Services are recorded, even where these are done informally and meet DTR criteria
<ul style="list-style-type: none"> • Young person returns or remains with family CIN plan 	
<ul style="list-style-type: none"> • Young person refused sec 20 and housing and found to be intentionally homeless, re offer sec 20 and work with young person to secure stability 	

