

Protocol for the assessment of homeless 16/17 year olds and Care Leavers

**Cambridgeshire County Council: Children Families
and Adults – Children’s Social Care**

**Cambridgeshire County Council: Children Families
and Adults – Early Help and Preventative**

Cambridge City Council

East Cambridgeshire District Council

Fenland District Council

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1. INTRODUCTION

- 1.1 Being homeless can pose serious risks to young people. This Protocol forms an agreement between the District and City Councils of Cambridgeshire, Children's Social Care (CSC), Locality Teams and the Youth Offending Service of Cambridgeshire County Council. The Protocol aims to ensure that by working together, agencies will prevent homelessness wherever possible and/or resolve the homelessness of young people and care leavers.
- 1.2 The Joint Housing Protocol has been developed in compliance with legislation and guidance which require Housing and Social Care Authorities to work together. It outlines the joint responsibilities of the signatories concerning the assessment of need and provision of accommodation services to homeless 16/17 year olds and care leavers aged 16-25.
- 1.3 Previous versions of this Joint Housing Protocol were based upon the revised Homelessness Code of Guidance for Housing Authorities, issued in 2002 and reissued in 2006. These took account of the Section 11 Children Act 2004 duty as well as the responsibilities of Children's Services to safeguard and promote the welfare of children in need as a core statutory function. Section 11 of the Children Act 2004 now requires Housing Authorities as one of the statutory partners to the Children's Trust, to co-operate with arrangements established by the Children's Services Authority to safeguard and promote the welfare of children.
- 1.4 The Protocol is also informed by the guidance jointly issued by Communities and Local Government and the Department of Children, Schools and Families (DCSF) (May 08) "*Joint working between Housing and Children's Services "Preventing homelessness and tackling its effects on children and young people"*". The guidance noted "the negative impact that homelessness can have on people's lives" and emphasises the need for joined up strategies, policies and procedures, including joint or co-ordinated assessment processes.
- 1.5 This Protocol has also been revised to include the judgments in the House of Lords (R (M) v Hammersmith and Fulham (2008) and (R (G) v Southwark LBC, May 2009 and subsequent guidance jointly issued in April 2010 by the Department for Children, Schools and Families and the Communities and Local Government. The Judgment clarified that the Children Act has primacy over the Housing Act in providing for Children In Need.
- 1.6 Both the Judgement and the Guidance emphasise the continuing duty of housing and children's services to collaborate in the discharge of their duties to children and young people. It was also made clear that 16 and 17 year olds are too vulnerable to leave home and live independently. Wherever possible all agencies, whether voluntary or

statutory, need to assist these young people to remain living at home with their parents or to return home if it is safe to do so.

- 1.7 There will be exceptions where the risk to the young person or to family members is such that they cannot remain living together. Under these circumstances, it is expected that the family will seek a suitable arrangement within the wider family if at all possible. Those with parental responsibility will be expected to exercise this responsibility at least until the young person is 18 years old.

2. AIMS AND OBJECTIVES

- 2.1 By working together (see appendix 1 for relevant legislation) participants aim to:
 - A. Enable children and young people to remain within their family wherever possible.
 - B. Provide young people with the care and support they need as individuals to achieve the best outcomes for them.
 - C. Treat young people with respect, security, care and understanding.
 - D. Ensure young people have the right to freedom from abuse, neglect and hardship.
 - E. Ensure young people have equal access to services, which meet their individual needs, whatever their race, gender, religion, disability, sexuality, opinion or family background.
 - F. Ensure young people have their needs met, including their needs for housing, support warmth, food, education and leisure.
 - G. Ensure that young people in care make a successful transition to independent living.
 - H. Ensure young people are aware of their responsibilities with regard to their behaviour, to abide by the rules and regulations governing accommodation provided.
 - I. Ensure young people are not subjected to numerous assessment processes and that they do not have to negotiate their own way through the range of agencies.

3. GROUPS COVERED BY THIS PROTOCOL

- 3.1 **The Joint Housing Protocol applies to all the groups listed below.** For each group there are specific statutory functions that apply, which each agency must abide by.
 - A. Young people of 16 or 17 years old who are already 'Children Looked After'.
 - B. Homeless relevant young people aged 16 or 17 and homeless former relevant (18 – 25).
 - C. Homeless young people age 16 or 17 years old and those at risk of homelessness and 18 – 21 year old care leavers (25, if in higher education).

- D. Intentionally homeless 16 and 17 year olds.
- E. Homeless couples where a partner is 16 or 17 years old, including those who are parents or expectant parents.
- F. Homeless couples where both young people are 16 or 17 years old.
- G. Care leavers aged 16 or 17 who need support to access to move-on into independent accommodation.
- H. Young people aged 16 or 17 released from custody.
- I. Young people who do not want to be referred to CSC or have disengaged with the assessment process with CSC but need support in accessing alternative accommodation.
- J. Young people where the CSC assessment concludes that they are able to return home or stay within the family or friends network but refuse to do this.

3.2 Young people under the age of 16 years old

All young people under the age of 16 years remain the exclusive responsibility of their parents, and if in need, Children's Social Care. If a homeless young person under 16 approaches any one of the other signatories to the protocol, Children's Social Care should immediately be contacted in order that an assessment can be undertaken.

3.3 Young People of 16 or 17 years old who are already 'Children Looked After' and including those who are Former Relevant Care Leavers (18-25).

- 3.3.1 This category refers to young people who are eligible and/or relevant care leavers under the Children (Leaving Care) Act 2000.
- 3.3.2 Article 3(2) of the Homelessness (Priority Need for Accommodation) (England) Order, 2002 excludes from priority need, for the purposes of the homelessness legislation, a child aged 16 or 17 to whom children's services owe a duty to accommodate under S.20.
- 3.3.3 All of Cambridgeshire's care leavers aged 16 to 25 are held within Children's Social Care (CSC). This would be within a LAC / Disability Unit or post 18 by the 18-25 team (leaving care). These young people could also be open to Adult Social Care post 18.
- 3.3.4 An application for housing needs to be made once the young person has reached the age of 17 ½ through registering with Home Link if they will have a housing need post 18.
- 3.3.5 Children Social Care and Housing will work together to make arrangements for the young person to be offered the most appropriate housing and ongoing support. The allocated worker will ensure that a comprehensive Pathway Plan is in place and provide relevant information from the Plan, or a copy of the Plan where appropriate (with the consent of the young person), to housing.

- 3.3.6 Where a young person leaving care is approaching 18 and will not have access to housing authority or housing association independent accommodation, a deposit and rent in advance for privately rented accommodation may be provided by CSC through a young person's 'setting up home allowance'.
- 3.3.7 CSC may act as a guarantor for young people, following an assessment of need and all other possible guarantors being explored and ruled out. The level of deposit and rent in advance will not exceed the Local Housing Allowance. In situations where CSC acts as a guarantor for 16 and 17 year olds, a new tenancy agreement should be produced when the young person reaches their 18th birthday. This is so that the liability and responsibility for the condition and the cost of the accommodation is transferred to the young person. Pre-18 CSC will be responsible for covering the rent of any Looked After Child or relevant young person.
- 3.3.8 A young person leaving care that has been looked after by Cambridgeshire outside Cambridgeshire and has a local connection under the Housing Act with a housing authority within Cambridgeshire, will remain the responsibility of Cambridgeshire and their originating housing authority. (The young person may also make an application to another authority where they can prove they have a local connection).
- 3.3.9 The use of Bed and Breakfast accommodation is deemed to be unsuitable for former relevant care leavers who are aged been 18 – 25 years and therefore, CSC and Housing will work together to avoid this wherever possible.

4. HOMELESS YOUNG PEOPLE AGE 16 OR 17 YEARS OLD AND THOSE AT RISK OF HOMELESSNESS

4.1 Supporting families to stay together and re-unification

- 4.1.1 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. Local Authority responses to 16 and 17 year olds seeking help because of homelessness should explicitly recognise this and work pro-actively with young people and their families to identify and resolve the issues which have led to the homelessness crisis.
- 4.1.2 All agencies signed up to this Protocol will work together to support families and to prevent homelessness where possible.

4.2 Emergency Accommodation

- 4.2.1 The service that the young person first approaches (Housing or Children's Social Care) will have the responsibility to make initial enquires regarding the young person's circumstances. Where it is evident that the young person cannot return home, the service in which the young person initially presented to, will be responsible for securing emergency accommodation. (Where a young person is being supported by a Locality team, the responsibility for providing emergency accommodation, where required, will rest with Social Care however; the Locality team will assist in trying to resolve the family breakdown to prevent the young person leaving home).
- 4.2.2 The use of Bed and Breakfast accommodation is deemed to be unsuitable for 16 and 17 year olds and therefore CSC and housing will work together to avoid this wherever possible.

5. YOUNG PEOPLE PRESENTING DIRECTLY TO LOCALITY TEAM OR CSC

- 5.1 Some young people will self-refer directly to locality team or CSC. In such circumstances, IAT (Integrated Access Team within the MASH) will agree the threshold for intervention. Where an appropriate referral is received, IAT will contact the Specialist Family Support Service (SFSS) and between them they will agree the timescale for intervention and assessment. If a young person is able to identify alternative accommodation for the immediate future then this needs to be facilitated with the support of IAT and the Locality Worker.

Such young people are a priority for SFSS and deemed to be Edge of Care cases. The SFSS will either allocate within a maximum of 3 days following receipt of referral and initial assessment or, in a crisis situation, will accompany a Social Worker from a unit to an initial visit straight away to prevent a young person becoming accommodated unnecessarily and to pick up the work with the family following the initial visit. SFSS will work with the young person and their immediate and extended family to prevent family breakdown.

- 5.2 The offer of Section 20 accommodation should be avoided in emergency situations where there has been no or insufficient assessments, and assessments should be completed as soon as possible to inform next steps.

However it is accepted that there will be occasions when this is unavoidable:

- A. The young person has been the subject of a Section 47 investigation and it is not deemed safe for them to return to the

family home and there is no other alternative within the extended family or social network.

B. Remanded into Local Authority care.

C. Where the young person has been genuinely abandoned by their parents (street homeless) and there is no one in the family or social network to offer them accommodation pending an assessment from Social Care.

5.3 In essence, the initial CSC assessment of the presenting circumstances needs to conclude that it appears that the young person genuinely has nowhere safe to stay for the night. If this is the case, then CSC must secure suitable accommodation for them. This will mean the young person will become looked after (under S.20(1) or S.20 (3)) whilst their needs, including their need for continuing accommodation and support, are further assessed. In such situations, it is imperative that the CSC assessment is completed within a realistic timescale to inform the plan for the young person, as post-13 weeks they will become entitled to full leaving care support services.

5.4 Where possible, following referral to CSC, Housing and the appropriate Social Work unit will discuss the young person and make arrangements to undertake a joint visit to enable a joint assessment to be undertaken. Where this is possible, it is considered to be in the young person's best interest.

5.5 In the majority of cases, young people need to be supported to identify somewhere within their family or social network to reside whilst the CSC assessment is completed. A Family Group Conference (FGC) may assist in identifying such options.

5.6 If wider family or friends are located for the young person to reside then a Locality Worker can continue to support the young person to ensure their needs are met while referrals are being made. This will ensure the right support remains in place whilst assessments are underway.

6. ASSESSMENT AND ACCOMMODATION UNDER SECTION 20

6.1 Where a 16 or 17 year old seeks help from Local Authority Children's Services or is referred to Children's Services by some other person or agency (including Housing Services) as appearing to be homeless or at risk of homelessness, or they are an unaccompanied asylum seeker without a parent or guardian with responsibility for their care, then Children's Services must assess whether the young person is a Child In Need and determine whether any duty is owed under Section 20 of the 1989 Act to provide the young person with accommodation. This can only be undertaken through the completion of an assessment where the presenting needs and issues can be considered to inform the provision of resources. (Emergency accommodation will be provided in the circumstances listed on page 10).

- 6.2 In cases where the young person is not yet homeless, the homelessness is not anticipated within the next 28 days, and where there are no known significant vulnerabilities for the young person, a referral should be made to the relevant Locality Team for input. The purpose of the referral to the Locality Team would be to attempt to avoid the homelessness occurring. However, the family have to agree to work with Locality. In the event they don't agree, a referral should be made to Social Care (IAT). In such cases, the Housing authority should also be alerted at this stage so that they are aware of the ongoing work to prevent homelessness.
- 6.3 If Locality is working the cases and prevent the child becoming homeless then they should consider a TAC (Team Around the Child) Meeting being held to ensure the right support is in place for the young person. If the case is referred to Social Care then a multi-agency meeting should be convened within 5 days to include the young person and their parent/s to plan respective responsibilities and roles to prevent the young person from becoming homeless.
- 6.4 **A 16 or 17 year old young person is deemed to be in need of Section 20 accommodation if:**
- A. The applicant is a child.
 - B. The child is a Child In Need.
 - C. The child is within the Local Authority area.
 - D. He/she appears to the Local Authority to require accommodation.
 - E. That need is as a result of the conditions of S.20 as a result of there being no person with parental responsibility for him, or because he is lost or abandoned, or because the person who has been caring for him is prevented for whatever reason from providing suitable accommodation or care, or because the Local Authority considers that his welfare is likely to be seriously prejudiced if they do not provide him with accommodation.
 - F. The child's wishes and feelings regarding the provision of accommodation have been ascertained.
 - G. Consideration (having regards to the child's age and understanding) is duly given to those wishes and feelings.
- 6.4.1 In the above circumstances, CSC shall provide accommodation under Section 20 (1) or Section 20 (3) of the Children Act 1989.
- 6.4.2 Children's Services have a responsibility to assess the needs of young people within their area, who appear to be Children In Need.
- 6.5 **The Children Act 1989 defines a Child In Need as a child:**
- A. Who 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 of services under this section of

the Act.

- B. Whose health or development is likely to be significantly impaired, or further impaired, without the provision of such services.
- C. Who is disabled.

6.5.1 Where a 16 or 17 year old seeks help directly from Social Care and there is nowhere that the young person can stay that night then Social Care will need to offer Section 20 accommodation pending assessment. Such agreement will need to be in exceptional circumstances as the offer and provision of any Section 20 accommodation needs to be informed through assessment. Bed and breakfast accommodation is not suitable for 16 and 17 year olds and should be avoided.

6.5.2 Section 20 accommodation should not be provided in emergency situations unless the following criteria are met:

- A. The young person has been the subject of a Section 47 investigation and it is not deemed safe for them to return to the family home and there is no other alternative within the extended family or social network
- B. Remanded into Local Authority care
- C. The young person has been genuinely abandoned (street homeless) by their parents and there is no one in the family or social network to offer them accommodation pending an assessment from Social Care

6.5.3 In essence, the initial CSC assessment of the presenting circumstances needs to conclude that it appears that the young person genuinely has nowhere safe to stay for the night. If this is the case then CSC must secure suitable accommodation for them. This will mean the young person will become Looked After (under Section 20(1) or (3)) whilst their needs, including their need for continuing accommodation and support, are further assessed. In such situations it is imperative that the CSC assessment is completed within a realistic timescale to inform the plan for the young person.

6.5.4 Before deciding which section of the Children Act 1989 provides the appropriate legal basis for provision of help or support to a Child In Need, a Local Authority Children's Services should undertake an assessment in accordance with the statutory guidance set out in the Framework for the Assessment of Children in Need and their Families. It should then use the findings of that assessment, which will include taking account of the wishes and feelings of the child (as required by Section 20 (6) of the Children Act), as the basis for any decision about whether they should be provided with accommodation under Section 20 (and therefore become Looked After) or whether other types of services provided under Section 17 of the Act are better suited to his circumstances (**See exceptions, 6.4**). Any assessment conducted needs to consider the needs of other children in the household and whether services need to be provided to them.

- 6.5.5 CSC has a duty to offer whatever support and assistance is necessary to prevent family breakdown and/or to enable the young person to be cared for by his/her parents or extended family or friends. This duty may be carried out on behalf of CSC by commissioned agencies.
- 6.5.6 Where the assessment by CSC indicates that the young person meets the Section 20 criteria, an application to CAM should be submitted for the threshold decision to be sought. The young person will become Looked After at the point that CAM determines the young person needs accommodation under Section 20. Until that time funding remains the responsibility of the case responsible unit and the costs associated to accommodation only transfers to the central budget at the point of ratification by CAM.
- 6.5.7 The young person will become a qualifying child under the Children (Leaving Care) Act 2000, when they have been looked after for 24 hours.

7. EXCEPTIONS TO THE SECTION 20 CRITERIA

- 7.1 A homeless 16 or 17 year old does not require accommodation under Section 20 under the following circumstances;
- A. *“where the child does have a home to go to, whether on his own or with a family or friend, but needs help in getting there, getting into it or in having it made habitable or safe. Such a child simply needs “help with accommodation” rather than needing accommodation*
 - B. *A child who has been living wholly independently for some time with a job and somewhere to live and then becomes homeless. His case may not fall within the criteria set out in S.20. Accordingly he would come within the 2002 Order and be in ‘priority need’ under the Housing Act 1996*
 - C. *Section 20(6) requires a Local Authority to ascertain and give due weight to a child’s wishes and feelings before providing him with accommodation under S.20. If a competent, homeless 16 or 17 year old makes an informed choice to decline to be accommodated under S.20, that status cannot be forced upon him: accordingly he would be a child with a ‘priority need under the 2002 Order.’”*
- 7.2 **Guidance:** It will be a matter for CSC to assess whether the young person has actually been living independently. A young person who had been sofa surfing should not be considered to be living independently.
- 7.2.1 It is possible that a duty under Section 17 may arise in the instance of a young person who has been living independently, but has lost this accommodation in circumstances which would be likely to deem him/her intentionally homeless. Where a local housing authority believes a young person to be eligible, homeless and in priority need,

the young person may make an application under Section 188 of the Homelessness Order 2002 and be provided with temporary accommodation whilst enquiries are being made.

- 7.2.2 A young person who has been deemed intentionally homeless may well be a Child In Need and be referred to CSC to assess his or her needs as such.
- 7.3 **Guidance in relation to c) above:** Homeless Young People who do not consent to be accommodated under Section 20 – the young person's competence to make such a decision must be evaluated.
- 7.4 In considering that the young person understands the options available to them, it would be good practice to offer them the opportunity to discuss their assessment with someone independent of CSC. This could include NYAS or a representative from Centre 33, Youth Support Service or the Locality Team (this is not a definitive list).
- 7.5 CSC may assist the young person to meet their other assessed needs under Section 17 if the outcome of the assessment indicates that the young person does not meet the threshold for Section 20 accommodation, as they have alternatives in their family or social network which they can utilise or the young person is stating that they do not want to become a Looked After Child. However, such support would not extend to funding of accommodation or benefit equivalent financial support; young people would need to claim relevant benefits.
- 7.6 *Provision of accommodation under Section 17 of the 1989 Act*

2.54 Children's services authorities have powers to accommodate children under Section 17(6) of the 1989 Act. A young person provided with accommodation under this section would not be looked after and the local authority would not have the corresponding duties set out in Sections 22, 23 and 24 of the 1989 Act. However, the provision of accommodation under Section 17 will almost always concern children needing to be accommodated with their families.

2.55 The powers of local authorities to provide accommodation under Section 17 cannot be used to substitute for their duty to provide accommodation under Section 20(1) of the 1989 Act to homeless 16 and 17 year olds who are assessed as being children in need following the process described in Part 2, above. Children's services do not have the option of choosing under which provision they should provide accommodation for homeless 16 and 17 year olds. Section 20 involves an evaluative judgment on some matters but not discretion.

- 7.7 Housing services are reminded that applicants cannot be considered to have become homeless intentionally because of failing to take up an offer of accommodation; homelessness is only capable of being 'intentional' where the applicant has ceased to occupy accommodation

that it would have been reasonable for him or her to continue to occupy.

- 7.8 Where a 16 or 17 year old is secured accommodation under Part 7 of the Housing Act 1996, Children's Services should work closely with Housing Services to ensure that the young person is provided with sufficient support to ensure he or she does not become homeless intentionally in the future; for example, as a result of accruing rent arrears or being evicted due to bad behaviour. At the point that the CSC assessment has concluded, agreement needs to be reached as to who is going to offer on-going support and whether this might be under a CIN Section 17 plan or from Locality Team.

At such times the Locality Team can offer the young person support around education, employment and training, access to appropriate benefits, support to maintain accommodation, emotional and practical support to enable them to maintain their place of residence and also ensure their needs are met further.

8. YOUNG PEOPLE PRESENTING TO A LOCAL HOUSING AUTHORITY

Refer to Appendix 4 (flowchart)

- 8.1 Where the initial approach or referral for housing assistance is made to Housing Services, the Authority should treat the approach/referral as an application for assistance under Part 7 of the 1996 Act. The Housing Authority will therefore need to decide whether there is reason to believe the young person may be homeless or likely to become homeless within the next 28 days (Section 184 of the 1996 Act) and, if so, the authority will need to make enquiries to determine whether any duty is owed under Part 7 of the 1996 Act.
- 8.1.2 In order to do this the Local Housing Authority will also immediately refer the young person to Children's Social Care for an assessment of need under the Children Act (1989). The referral process is detailed below:

All new referrals to CSC need to be made via Cambridgeshire Direct:

Phone: 0345 045 5203. This number is available Monday to Friday
8am – 6pm and Saturday 9am – 1pm.

Email address: referralcentre.children@cambridgeshire.gov.uk

Fax: 01480 376748 Mini Cam: 01480 376743

Outside these hours and at weekends, please ring the Emergency Duty Team on **01733 234724**.

- 8.1.3 The Local Housing Authority will make some initial enquiries into the young person's immediate circumstances and take steps to prevent homelessness by promoting reconciliation with their family where

possible. This will involve checking out the accuracy of information with parents regarding their current situation. If after consideration of the issues, the young person is not able to return home then emergency accommodation should be offered on a time limited basis. The authority will have an immediate duty to secure interim accommodation (Section 188(1) of the 1996 Act) pending a decision whether any substantive duty is owed under Part 7. Such accommodation must be suitable for a 16 & 17 year old and, in considering suitability, authorities should bear in mind that 16 and 17 year olds who are homeless and estranged from their family will be particularly vulnerable and in need of support. Where support isn't provided on site, this should be triggered through referral to and assessment by Social Care.

- 8.1.4 Where possible, following referral to CSC, Housing and the appropriate Social Work unit will discuss the young person and make arrangements to undertake a joint visit to enable a joint assessment to be undertaken. Where this is possible, it is considered to be in the young person best interest.
- 8.1.5 Accommodation will only be offered after verifying that the young person is homeless through discussions with the young person's parents/ carers, unless this is not possible due to either being unable to contact their parents (in which case, attempts should continue on the next working day) or if such contact may put the young person at risk. In such cases, Housing staff should consult with CSC regarding how to manage such situations on referral.
- 8.1.6 A multi-agency meeting should be convened within 5 days to include the young person and their parent/s to plan respective responsibilities and roles to prevent the young person from becoming homeless. This will be triggered by the referral to Social Care and the allocated Social Work Unit for the case will be responsible for setting this up.
- 8.1.7 The question whether any substantive duty is owed under Part 7 of the 1996 Act will depend in part on the outcome of the assessment by Children's Services and whether any duty is owed under Section 20 of the 1989 Children Act. Housing services should continue to secure accommodation under Section 188 (1) until they have notified the young person whether any substantive duty is owed under Part 7 of the 1996 Act.
- 8.1.8 It is acknowledged that emergency temporary accommodation does not provide an appropriate arrangement for young people for more than a very short period, pending an assessment by CSC (10 working days). Therefore, the duty to provide accommodation will pass to CSC, who will take steps to find alternative suitable accommodation for the young person as a matter of urgency, where the Section 20 criteria decision has been endorsed by CAM (Children's Allocation Meeting). CAM is a panel consisting of representatives from Social Care including Senior

Managers who agree the criteria of accommodation including the initiation of legal proceedings.

- 8.1.9 Where Children's Services have accepted that they have a duty under Section 20 to provide accommodation and the 16 or 17 year old has accepted the accommodation, the young person will not be homeless or in priority need and no further duty will be owed under Part 7 of the 1996 Act.
- 8.1.10 It is imperative that once CSC has completed their assessment that they provide feedback to Housing colleagues, including a copy of the assessment where the young person has given permission to share. The young person as well as their parents should receive a copy of CSC assessment and information regarding what being Looked After entails if the outcome of the assessment is recommending an offer of Section 20 accommodation.
- 8.1.11 Where the assessment concludes that the young person is not in need of Section 20 accommodation, they can present to Housing for advice and guidance. However, if it is suggested within the assessment that they have alternative options within their family or social network and therefore are not at risk of homelessness, Housing will consider this information as to whether they have any duties towards them as they are not likely to be at immediate risk of homelessness.
(Refer to appendix).
- 8.1.12 If a young person refuses the offer of Section 20 accommodation and where the outcome of assessment is making such a recommendation, then further discussion needs to take place with the young person regarding this decision. In situations such as this, the young person should have access to an independent professional such as a NYAS (National Youth Advocacy Service) representative, Centre 33, Youth Support Service or a representative from the Locality Team (this is not a definitive list). This is to ensure that a young person is fully aware of the potential consequences of making such a decision. Following consultation if a young person continues to reject the offer of CSC accommodation, they need to be asked to sign appendix 5 to confirm this decision
- 8.1.13 CSC may over-ride the young person's decision to refuse Section 20 accommodation where this is considered to have a detrimental impact on the welfare of the young person.
- 8.1.14 In the event that a young person maintains their refusal to accept the offer of Section 20 accommodation, it is imperative that Housing is provided with an update regarding the outcome of the assessment and any subsequent decisions that have been made by the young person regarding their refusal to accept Section 20 accommodation. Housing should be provided with a copy of the CSC assessment in order for them to consider the young person's application for housing. Young

people should also be provided with accurate information from Housing about what alternative accommodation that they could access under part 7 from the Housing Authority.

8.1.15 Social Care Teams must ensure that support is available (this may be provided by the Locality Teams using the Referral and Management of Cases Protocol) to the young person even if Section 20 accommodation is refused.

8.1.16 In the event that CSC assessment concludes that the young person can return home, their parents are clear that this is what they want or there are options available to them in the extended family or social network, then this should be supported by all agencies. If the young person continues to refuse to accept that they have alternatives within their social network, further consideration needs to be given to whether it would be appropriate for them to access supported living but due to the outcome of CSC assessment this would not be provided under Section 20.

8.1.17 There is scope to consider a County wide accommodation panel; this will include District Councils, Social Workers, Locality Workers and potentially other professionals who are connected to the child. Such a panel could highlight the needs of young people that all agencies are working with and ensure appropriate support and early intervention can be provided where necessary. For example, they could highlight a young person who is currently residing at home or with friends / relatives and the panel could highlight an appropriate provision for them where they could be interviewed and placed on a waiting list, preventing Emergency Accommodation being required.

8.1.18 Alternatively, it could identify those young people at risk of being evicted and considered intentionally homeless, allowing other services to become involved at an early stage to prevent such events occurring. This may alleviate some of the difficulties in their current accommodation and allow for a planned move should accommodation breakdown.

8.2 Financial Support

8.2.1 When interim accommodation is provided under Section 188 (1) of the 1996 Act, it is important that support is put in place to aid that young person with their benefits claims as soon as possible. The Locality Team, CSC, or the Housing Department can all assist the young person to claim their benefit entitlements, including Job Seekers Allowance (JSA) if appropriate.

8.2.2 Until the young person is looked after under Section 20, their accommodation costs should be met by Housing Benefit (HB). If necessary, CSC could pay the young person a Section 17 payment whilst their benefit claim is processed and in order to expedite the HB

claim. However, this needs to be for a time limited period and should not exceed two weeks of universal credit (JSA/IS) equivalent benefit. This arrangement will be in place in circumstances when Housing has provided the initial accommodation while assessment is being undertaken by CSC. Financial assistance to meet the young person's other assessed needs will be provided by CSC under Section 17, unless the young person has been able to access benefits.

- 8.2.3 Once the Section 20 decision has been confirmed, CSC is responsible for the young person's financial support and benefit claims should cease unless the young person is in receipt of disability or parenthood benefits.

9. IMPLICATIONS FOR A YOUNG PERSON BEING LOOKED AFTER AND THEIR LEAVING CARE ENTITLEMENT

- 9.1 A young person who is looked after under Section 20 for at least 24 hours becomes a qualifying child in the first instance under the Children (Leaving Care) Act 2000, and then after 13 weeks they have a full entitlement as eligible, or relevant, and subsequently former relevant young people. If a young person has qualifying status, this means that they can seek advice and support in relation to education, employment and training. The onus will be on the young person to make contact with the Leaving Care Service to request this support and any offers of support whether this is practical or financial will be subject to assessment. The leaving and aftercare duties arise and the CSC remains responsible for supporting the young person up to the age of 25.
- 9.2 In addition, former relevant young people are accepted as a priority for Local Authority Housing as they turn 18. Qualifying young people may also be deemed to be in priority need if they are considered more vulnerable than other young people in this category.

10. YOUNG PEOPLE AGED 16 AND 17 LIVING INDEPENDENTLY AND WHO ARE DEEMED INTENTIONALLY HOMELESS

- 10.1 All steps must be taken collectively to prevent a young person becoming intentionally homeless in the first place. Where this is not possible, all cases of intentionality homeless applicants should be advised of their right to review to ensure that the applicant is given the opportunity to state their case.
- 10.2 Where a Housing Authority finds or is likely to find a 16/17 year-old who is living independently intentionally homeless, the authority will refer to CSC to assess the young person's needs and seek to identify alternative provision for the young person.

- 10.3 In most cases, a decision of Intentional Homelessness under the Housing Act will lead to an assessment of 'in need' under the Children Act, unless the CSC assessment resolves the young person's accommodation and support needs.
- 10.4 In considering whether a young person should be deemed intentionally homeless, the Housing Authority will take into account the young person's age and maturity. In the event of an intentional homelessness decision, the Housing Authority has a duty to provide temporary accommodation for a limited time. This is dependent on circumstances but would typically be for 28 days. In cases where the young person has been violent or caused extreme anti-social behavior or otherwise breached their conditions of occupation within temporary accommodation, the period of notice could be less than 28 days.
- 10.5 CSC will undertake an assessment of the young person's needs including their need for accommodation and provide services to meet the need as appropriate under Section 17 or Section 20.

11. HOMELESS COUPLES (16 OR 17 YEARS OLD)

11.1 Homeless couples where a partner is 16 or 17 Years old

The needs of 16 and 17 year olds for accommodation under Section 20 should be assessed in the context of their relationship with any "partner". In some cases it may be appropriate for a 16 or 17 year old to be accommodated in a situation where they can live with their partner. This should not prevent Local Authorities from accommodating a 16 or 17 year old under Section 20 where the young person is owed a duty under this section. Specific consideration should be given to placement options for young people accommodated under Section 20 whilst living with a partner. For example, placement in an alternative arrangement such as a self contained property with visiting support may be appropriate. It will also be important to have contingency plans in place in case relationships break down.

11.2 Couples where both young people are homeless and 16/17 years of age

11.2.1 CSC has a duty to assess the needs of a Child In Need, taking into consideration all of their circumstances. Normally a young person in need of accommodation will be accommodated in their own right, while taking into consideration their need to maintain links with family, friends and partners.

11.2.2 However, where two young people present as an established couple and wishing to remain together, for instance if one of the young people is pregnant or has a child, the assessment will take into account their rights to family life under the Human Rights Act as well as the needs of

the child or unborn baby to establish or maintain a real relationship with both parents. This may result in an exceptional arrangement for both young people to be Looked After together; such exceptions would be case by case agreed at CAM.

12. HOMELESS YOUNG PEOPLE FROM ANOTHER AREA

Where a 16 or 17 year old who was living in one Local Authority area and moves to another Local Authority area and seeks assistance from Children's Services in that Local Authority, the duty to assess falls on the Authority from which they seek assistance. The Authority cannot refuse to consider the young person's immediate needs and expect them to return to the Authority in the area presumed to be their "home" district unless an assessment has been undertaken.

13. APPENDICES

Appendix 1: The statutory framework for working together

Appendix 2: Legislation

Appendix 3: Assessment and Practice Principles

Appendix 4: Flowchart

Appendix 1: The statutory framework for working together

The following legislation emphasises the need for joint working between Housing Authorities, Social Services and other statutory, voluntary and private sector partners in tackling homeless more effectively:

- Section 213, Section 213A and Section 170 of the Housing Act 1996.
- Section 1 of the Homelessness Act 2002.
- Homelessness Code of Guidance for Local Authorities.
- Section 2 of the Local Government Act 2000.
- Section 27 of the Children Act 1989.
- Section 10, Section 11 and Section 13 of the Children Act 2004.
- Children (Leaving Care) Act 2000.
- Section 47 of the National Health Service and Community Care Act 1990.
- Section 27 and Section 31 of the Health Act 1999.
- Case law including M vs. LB Hammersmith and Fulham 2008 and G vs Southwark 2009.
- Children in Care Custody Bill 2009.
- Draft Guidance and Regulations Planning Transitions to Adulthood - DCSF 2010.
- Provision of Accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation - DCSF/CLG, issued April 2010.

In addition, the following legislation and guidance provides the wider framework for the work of the agencies party to this Protocol:

- Homelessness Act 2002
- Homelessness Code of Guidance for Local Authorities
- Children Act 1989
- Children Act 2004
- Children (Leaving Care) Act 2000
- Human Rights Act 1998
- Immigration and Asylum Act 1999
- Criminal Justice Act 1991
- Youth Justice Board National Standards
- United Nations Convention on the Rights of the Child

- National Health Service & Community Care Act 1990
- Data Protection Act 1998
- Sex Discrimination Act 1975, 1979, and 1986
- Race Relations Act 1976 and Amendment Act 2000
- Disability Discrimination Act 1995 and 2005
- Equalities Act 2006

Appendix 2: Legislation

Section 20, Children Act 1989

Section 20 (1) Every Local Authority **shall (i.e. has a duty to)** provide accommodation for any Child In Need within their area who appears to them to require accommodation as a result of:

- (a) There being no person who has parental responsibility for him;
- (b) His being lost or having been abandoned; or
- (c) 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.

There is another subsection of Section 20 which could also be taken into account which reads as follows:

Section 20 (3) Every Local Authority shall provide accommodation for any Child In Need within their area who has reached the age of sixteen and whose welfare the Authority consider is likely to be seriously prejudiced if they do not provide him with accommodation.

However, it is Section 20 subsection (1) which has been relied upon in two recent House of Lords cases heard by Baroness Hale (**R (M) v Hammersmith and Fulham LBC (2008)** UKHL 14 and **R (G) v LB Southwark (2009)** UKHL 26). This is taken to include situations where the young person has fallen out with their parents. Where a young person (16/17) has been excluded from the family home by their parents and attempts to reunite them have been unsuccessful, Section 20(1) (c) applies.

The Homelessness (Priority Need for Accommodation) (England) Order (S.1.2002 No.2051) gives priority need to a range of young people as follows:

- A person aged 16 or 17 who is not a relevant child for the purposes of Section 23A of the Children Act 1989 or a Child In Need who is owed a duty under Section 20 of the Children's Act
- A person (other than a relevant student) who is under 21 and who has been, but is no longer, accommodated, looked after or fostered at any time between the ages of 16 and 18 (i.e. someone not coming within the Leaving Care Act, having not been accommodated for a period of 13 weeks or more)
- A person (other than a relevant student) who is over 21 and who is vulnerable as a result of having been Looked After, accommodated or fostered.

Interestingly, the definition of young people who have been accommodated is wide and includes young people who have been accommodated by a Local Education Authority, Health Authority (for a consecutive period of at least 3 months, which also applies where the 3 months began before the young person was 16 but ended after) or who have been privately fostered.

Appendix 3: Assessment and Practice Principles

We strongly believe that all children and young people, whatever their age, are best cared for within their own families and we will do whatever we can to help families to live safely together.

It needs to be made clear to parents that whatever happens regarding the outcome of the Social Care assessment and the support that families are offered, as parents they will continue to have parental responsibility for their child until they reach 18 years of age.

It also needs to be made clear to parents that CSC will be advising DWP and Housing of the fact that their son or daughter has been accommodated by the Local Authority and therefore their benefit entitlements need to be reviewed.

In the event that CSC receive a referral regarding a young person aged 16 or 17 years of age where family breakdown looks likely or if it has already happened, the assessment process needs to ensure that the following happens:

- An immediate referral to the SFSS.
- An immediate referral to the FGC (Family Group Conferencing) Service.
- Alert should be made to Housing to offer young person (where appropriate) a joint assessment.

Any assessment undertaken needs to explore the needs of the whole family including other siblings.

It will only be in exceptional cases, when an assessment hasn't been concluded, that accommodation should be offered as it is not deemed to be safe for a young person to remain in their current situation. This situation might be at home, with friends or moving from place to place. In such cases, after very careful consideration and discussion with everyone involved, CSC will consider offering accommodation and support to a young person on a strictly **temporary basis** under Section 20 until CSC have completed assessment.

The assessment also needs to consider the young person's view on being accommodated, what being accommodated entails in terms of expectations of them and an offer to meet with a representative independent of CSC should be offered so that the young person is provided with an opportunity to make an informed choice. Representatives can be considered from a variety of agencies such as NYAS, Centre 33, Youth Support Service or the Locality Team. These services can help discuss the options available to the young person. It is imperative that a young person understands the implications of being accommodated under Section 20 and the entitlements that they will have as Care Leavers.

Any assessment needs to consider the young person's ability to engage in the support offered via Section 20 accommodations. If at the point of the initial LAC review, it is evident that the young person has not engaged in the support available and has not resided in the accommodation provided, the decision to de-accommodate needs to be taken. The young person will then be offered services under Section 17 where appropriate.

It needs to be made clear to young people that all 16 and 17 years olds, who are accommodated under Section 20 for 13 weeks or more, acquire the status of a 'Looked After Child'. This means that in addition to being provided with accommodation and financial support, whilst they are in the care of the Local Authority, they will be offered a worker who will help decide what advice, assistance or support should be provided to them. This will be detailed in a needs led assessment and in addition, a 'pathway plan' should be drawn up, setting out how the Local Authority proposes to meet their needs with a view to supporting the child after they turn 18. The young person can expect advice and assistance from the Local Authority until they are 25. A young person being accommodated by the Housing Department would not receive any of these additional forms of support, although can access assistance from Locality Teams.

If a young person has not been accommodated for the prescribed 13 weeks due to them turning 18 before they reached this period of entitlement or were exited prior to being Looked After for the 13 weeks for any other reason, they will have the leaving care status of qualifying. The qualifying status will provide them with advice and guidance in respect of employment, education or training up to the age of 25, with the onus on the young person making contact direct with the Leaving Care Team to request an assessment to access such support, which can be financial or practical support.

Appendix 4

Flowchart - Protocol – homeless 16/17 year olds

