

Joint Protocol on the provision of Accommodation for 16 and 17 Year Olds who are Homeless or Threatened with Homelessness

SCOPE OF THIS CHAPTER

This is a joint working protocol between the Housing Directorate and Children's Services Directorate regarding the procedure for responding to approaches for assisting 16/17 year old persons who are homeless or threatened with homelessness. The primary objective of the protocol is to prevent homelessness and safeguard the well-being of the young person through joint working to ensure the best outcome for homeless/potentially homeless young people.

Contents

1. [Introduction](#)
2. [Supporting Families Staying Together](#)
3. [Children's Services Duties towards 16 and 17 year olds who seek help because of homelessness, or being threatened with homelessness.](#)
4. [Duties Placed on Housing Services when 16 and 17 year old seek help because of homelessness or being threatened with homelessness.](#)
5. [The provision of suitable accommodation for 16 and 17 year olds.](#)
6. [Joint working to prevent and resolve homelessness among 16 and 17 year olds.](#)
7. [Compliance, Equality and Monitoring](#)

1. Introduction

The protocol covers the agreed procedures between the Childrens Services and Delivery Departments (that will be followed when responding to approaches for assistance from 16/17 year old persons who are homeless or threatened with homelessness.)

The provisions included within the protocol reflect the judgement made by the House of Lords in *R (G) v Southwark* (2009) UKHL 26 and the subsequent guidance produced by the Secretary of State for Schools, Children and Families and the Secretary of State for Housing, Communities and Local Government relating to local authorities' duties to 16/17 year olds who are homeless or threatened with homelessness.

The protocol is concerned with the legal duties set out in part 3 of the 1989 Children Act relating to children in need who require accommodation and Part VII of the 1996 Housing Act (as amended by the 2002 Homelessness Act) relating to people who are homeless/threatened with homelessness who approach the authority requesting housing assistance.

Case law has clarified the relationship between the duty under section 20 of the Children Act 1989 ('the 1989 Act') and duties under Part 7 of the Housing Act 1996 ('the 1996 Act') in the case of 16 or 17 year olds who require accommodation. The House of Lords case *R (G) v Southwark [2009] UKHL 26* held that, where a 16 or 17 year old is owed duties under section 20 of the 1989 Act, this takes precedence over the duties in the 1996 Act in providing for children in need who require accommodation. Where the specific duty is owed under section 20 of the 1989 Act, a 16 or 17 year old should be accommodated under that provision rather than looking to the general duty owed to children in need and their families under section 17 of the 1989 Act.

Whilst the section 20 Children Act 1989 duty takes precedence, housing services also have duties towards young people who are homeless or threatened with homelessness with each individual case needing to be assessed and determined accordingly. Duties owed by each service will depend on a range of factors, including the outcomes of any assessments and enquiries; and the wishes and feelings of the young person and their family. **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.** For more information on joint working between children's services and housing services see chapter 6.

16 and 17 year olds who are homeless or threatened with homelessness are likely to be vulnerable and will often be at risk of harm in the absence of intervention. Safeguarding and promoting their welfare should be central to service provision. If there is any concern that a child may be suffering, or likely to suffer, significant harm then local safeguarding procedures must be followed. The statutory guidance, ['Working](#)

together to Safeguard Children' sets out what is expected of organisations to safeguard and promote the welfare of children.

This protocol does not cover the wider responsibilities of Children's Services and the Delivery Services Departments, to identify and support families who are at risk of negative outcomes, including homelessness or housing need, by delivering integrated and targeted services.

A key aim of this protocol is to ensure that young people receive help and appropriate support in a timely manner whilst a decision is made as to which service should take lead responsibility in responding to their housing need. The protocol will ensure that young people receive a seamless service with Council services working together to respond to their needs.

2. Supporting Families Staying Together

Young People living with their families

Wirral Council believes that, in most circumstances, the interests of young people are best served by living with their parents and that they should move to independent living in a planned way. The initial priority for both Wirral Housing Options Service and Children's Services will be to identify whether, a young person who approaches the authority for assistance because they are homeless or threatened with homelessness, can safely return to their parental home. Young people should not remain in their family home if this places them at risk of violence or other harm. Young people will not be left in a situation which may place them at serious risk of harm, for example, sexual or physical abuse.

Wirral Council's Adolescent Edge of Care Team provides a number of support interventions. The aim of the service in relation to this protocol is to identify whether a young person can reconcile the differences with their parents/guardians so that they can return home on an indefinite basis or whether they can return to their home for a period sufficient to enable them to make a planned move to independent accommodation.

If it is decided that a young person can return home and does not require accommodation, then the Adolescent Edge of Care Team will provide short term support intervention and liaise with Housing, where relevant, as part of a wider rehousing approach via a Personal Housing Plan.

Work undertaken by children's services and housing services to prevent a 16 or 17 year old from becoming homeless may be undertaken under both section 17 of the 1989 Act and section 195 of the 1996 Act. Any preventative work should be undertaken **alongside the assessment processes outlined in this guidance**, and should not delay the provision of accommodation or performance of other statutory duties where these are owed.

If key issues affecting the young person's welfare and/or the sustainability of their living at home remain unresolved, but they are able to remain or return there, support should be provided to the family through children's services. The needs of the young person should be assessed and, if following assessment determined to be a child in need, set out in their child in need plan, and their Personal Housing Plan

16 and 17 year olds who may require accommodation with children and/or partners

By the age of 16 or 17 many young people are forming relationships and a few may themselves be pregnant or have children. Assessment, support and accommodation services should take into account young peoples' relationships as well as any dependent children and, where appropriate, support them to build a positive family life.

The needs of 16 and 17 year olds' for accommodation 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 must 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.

Where young parents are provided with accommodation by children's services and become looked after, it does not follow that their child will also be looked after. This is an issue for an entirely separate assessment based on the needs of the child.

3. Children's services duties towards 16 and 17 year olds who seek help because of homelessness, or being threatened with homelessness

Duties owed to young people who may require accommodation

Where a 16 or 17 year old seeks help from local authority children's services, or is referred to children's services via the Integrated Front Door by some other person or agency as appearing to be homeless or threatened with homelessness, children's services must carry out an assessment of what duties, if any, are owed to them under the provisions of section 17 or Section 20 of the Children Act, 1989. 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 children's services 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 early help services, whereas if there is an imminent threat of homelessness or if the young person is actually homeless, a child in need assessment must be carried out and the child accommodated under section 20.

All identified placements must go through the agreed authorisation process before being accepted as a suitable placement.

Homeless young people who are unaccompanied asylum seekers 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 children's services, but will not require referral to a local housing authority.

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 children's services 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. If the young person is placed for a continuous period of more than 24 hours the young person will be offered section 20 accommodation, should they choose not to accept this then support will be provided under section 17. **(further information on section 20 below)**.

Wirral will provide accommodation for any child in need within the area who has reached the age of sixteen and whose welfare we consider is likely to be seriously prejudiced if we do not provide them with accommodation.

Where a young person in need requires accommodation as a result of one of the factors set out in section 20 of the Children Act, 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, and the local authority will owe them the duties that are owed to all looked after children, and once they cease to be looked after, the duties that are owed to care leavers under that Act. Whilst accommodated under section 20 the young person will not be eligible for welfare benefits, including housing benefits or housing costs under universal credit. Children's services will have a duty to maintain them, including meeting the cost of accommodation.

There are only two circumstances in which it may be determined 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.

The key issue here relates to the capacity of the young person concerned and where any doubt exists a formal capacity assessment should be undertaken and the results recorded with any resultant actions made clear.

Undertaking Assessments

Identifying the needs of the young person and the best response to these needs will be the function of each assessment. This will be carried out by a social worker who should lead a multi-agency assessment.

Determining who is in need and the extent of any needs requires professional judgment by social workers, informed by consultation with other professionals familiar with the circumstances of the individual young person and their family. **However, where a young person is excluded from home and is, for example, staying with various friends, or sleeping in a car, it is extremely likely that they will be a child in need.**

Where a 16 and 17 year old parent is homeless they are also likely to have significant needs and require accommodation and support as a child in need. Local authorities must also carry out an assessment of need if the young person is a young carer, or the parent carer of a disabled child, as set out in sections 17ZA-17ZD of the 1989 Act. A multi-agency assessment should make clear from the outset who is responsible for what actions, within what timescales, and what the possible outcomes of the assessment might be.

Where a young person seeks help because they are homeless or threatened with homelessness an assessment must be conducted jointly by both children's and housing services. Alternatively, any assessment and referral processes should be underpinned by appropriate information sharing so that young people do not have to repeat their stories each time and navigate between agencies. The lead agency will be Wirral Children's Social Care, given their responsibilities for children in need in their area, and the need for the Children act duties to take precedence. However this protocol will ensure that joint assessments will be carried out in conjunction with housing to ensure 16 and 17 year olds receive the relevant and appropriate assistance they are entitled to.

The most crucial issues to be determined in the first instance will be whether the young person is actually homeless, if the young person is a child in need (section 17) and/or is suffering, or likely to suffer, significant harm (section 47), and/or if the young person requires emergency accommodation. If this is the

case, children's services must accommodate them immediately. The welfare of the child is paramount and a 16 or 17 year old must not be placed at risk whilst waiting for the completion of an assessment.

As set out in *Working Together to Safeguard Children*, the assessment should identify the young person's and their family's strengths as well as any difficulties, and should be focussed on outcomes, deciding which services and support to provide so that the young person's needs, including the need for suitable accommodation, are met for the future. The assessment will need to determine whether or not the young person can return home, with support for them and their family if necessary, or whether this is not a possible or a safe option.

In some cases, it may not be necessary for the young person to be accommodated by children's services because the young person's needs can be met by providing other services, for example, support to enable the young person to return to the care of their family or other responsible adults in the young person's network. If children's services conclude that the young person does not require accommodation for this reason, they should consider whether they should provide services for the young person under section 17 of the 1989 Act, as a child in need. Where the local authority decides to provide services, a multi-agency child in need plan should be developed which sets out which agencies will provide which services to the child and family.

If the young person is threatened with homelessness but is not homeless - where a decision reached is that the young person is a child in need, children's services will lead work to prevent the young person being threatened with or becoming homeless in the future. This will be based on the professional judgment of an individual young person's circumstances, whether it is in the young person's best interests to remain with their family and if so, what is needed to support this. Where the young person is a child in need, children's services should use their powers under section 17 of the 1989 Act to provide these services, and set these out within a child in need plan.

Timescales

As set out in *Working Together to Safeguard Children*, the speed with which an assessment is carried out should be determined by the individual young person's circumstances and the nature and level of any risk of harm faced. Minimum expectations on Wirral are that within one working day of a referral being received, a local authority social worker from the Integrated Front Door should make a decision about the type of response that is required and acknowledge receipt to the referrer. Where a young person refers themselves or is referred by another agency as appearing to be homeless or threatened with homelessness, children's services should proceed with a child in need assessment and work collaboratively with the Housing Options Team on any housing duties owed.

The maximum timeframe for a statutory assessment to conclude, such that it is possible for the local authority to reach a decision on next steps, should be no longer than 45 working days from the point of referral. However, this must be balanced against the fact that in the case of a 16 or 17 year old who is threatened with homelessness or is homeless, 45 days is a long period of time, which may involve significant risk and hardship, impacting on their safety, welfare and physical and emotional well-being. Therefore **local working arrangements set out a shorter timescale for completion of the assessment; this timescale is 3 working days.**

Where particular needs are identified at any stage of the assessment, social workers should not wait until the assessment reaches a conclusion before commissioning or providing services to support the child and their family, including the provision of accommodation under section 20 of the 1989 Act if necessary.

Young Persons Wishes and Feelings

Wirral Children's Services will need to have reasonable regard for the wishes and feelings of the young person who is homeless or threatened with homelessness. This will include consideration of their emotional and behavioural development and their capacity to make use of wider resources to manage independent living.

If a young person states that they do not wish to be accommodated then this will be a significant, but not absolutely decisive, consideration in the overall judgement of their assessed needs and what services need to be offered to meet these needs. It is important that young people are consulted and are provided with

information, in a format that they can understand about what services can be provided to them as a Child Looked After.

Consideration should be given to whether the young person has the capacity to understand the implications of accepting or refusing the housing and support options that are being made available to them. A young person should be encouraged to secure independent advice and support that can help them to determine what housing and support options they want.

Children's services should also ensure that the young person receives accurate information about what assistance may be available to them if they do not become looked after, including from housing services under Part 7 of the 1996 Act. Entitlement will be determined as part of the joint assessment process and appropriate advice and support provided under the Act. In particular the considerations a young person needs to be made aware of are:

- a. duties on housing services to undertake an assessment, develop a personalised housing plan and to take steps to help the applicant retain or secure accommodation (sections 195 and section 189B of the 1996 Act),
- b. the requirement on the applicant to cooperate and for applicants to take steps themselves as set out in a personalised plan (section 193B and section 193C of the 1996 Act),
- c. the 'accommodation offer' under the relief duty – suitable accommodation which has a reasonable prospect of being available for occupation for at least 6 months (section 189B and section 195 of the 1996 Act),
- d. the implications of turning down offers of accommodation that are suitable (section 193A of the Housing Act 1996),
- e. the possible risk of being found or becoming homeless intentionally in the future (section 191 of the 1996 Act),
- f. their right to request a review of decisions (section 202 of the 1996 Act).

16 and 17 Homeless People from another Local Authority Area presenting on Wirral

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 area in which the young person is. 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.

An initial interview, combined with enquiries in the area where the young person came from, should be sufficient to establish their connection with the area where they have sought help and their reasons for seeking help there rather than in their 'home' district. Children's services will commence a Child in Need assessment, and provide accommodation as required, irrespective of whether a young person has previously lived in another local authority district. These enquiries may be able to establish whether it may be possible for the young person to return to the 'home' district. For example, it might be possible for the authority where the young person seeks help to negotiate with their 'home' authority to take over the assessment of the young person's needs, so that the young person is assessed in a familiar setting close to their family and friends.

It is essential that disputes about responsibility for the young person in the medium term should not get in the way of the authority that received the young person's request for assistance responding to the young person's immediate needs. The young person concerned must not be passed between local authorities and services whilst a decision is reached about which authority is responsible for assisting them.

Young People in Custody

There are situations where a young person is in the Youth Court and cannot return home and there is a risk that the young person could be remanded to custody if they do not have an address to be bailed too. In these circumstances, given the time pressures Youth Justice Service (YJS) will immediately inform Children Services who will take responsibility for exploring possible accommodation options with the young person, for example, family and friends. If no other options can be identified children's services will undertake an assessment to identify a suitable accommodation address.

When a young person is in Court and has been held in the cells overnight to be put before the nearest Court but has no accommodation to return to will not be remanded for this reason. The Court Officer will contact children's services with the details of the young person and circumstances surrounding their lack

of accommodation. Children's services will then take responsibility for exploring possible accommodation options with the young person, for example, family and friends.

Finally if YJS are called as an Appropriate Adult at the Custody Suite and are aware that the young person has no accommodation they should inform Children's services immediately, who will then take lead responsibility for exploring possible accommodation options with the young person. If no other options can be identified on all the above situations children's services will undertake an assessment to identify a suitable accommodation address.

Where a young person is remanded to custody pending hearing they automatically become a CLA. Children's services will open the case to an identified social worker who will liaise with YJS around CLA status and an initial meeting in the custodial suite will take place. .

Where a young person is currently in custody and will be, or is likely to be homeless on release, YJS staff should refer the young person directly to children's services who should undertake an assessment of need at least 4 weeks prior to their release date or as soon as practicably possible. Following assessment, if the need for accommodation has been identified but no suitable accommodation has been secured, this would necessitate an emergency arrangement. Therefore, children's services should consult with and request if necessary assistance from Housing Options Team in identifying suitable accommodation

Children's services should notify the YJS of the confirmed address in time for the Detention and Training Order (DTO) Planning Meeting and no less than 10 days prior to the release date. Failure to do so will impact on setting the Licence conditions and management of risk and could result in a delay in the young person being released from custody. Where a young person is sentenced to custody whilst a s.20 and provision of accommodation is active it should be noted that a CLA review should be convened prior to their release date for the purpose of agreeing a planned move into accommodation and support services.

Provision of Accommodation under section 17 of the 1989 Act

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 at in sections 22, 22B, 23, 23ZA-23ZB 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.

The powers of local authorities to provide accommodation under section 17 cannot be used as a substitute for their duty to provide accommodation under section 20(1) of the 1989 Act to homeless 16 and 17 year olds in need. 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.

However, in very limited circumstances the provision of accommodation under section 17 may be appropriate. Where a young person aged 16 or 17 is homeless and requires accommodation, does not wish to be accommodated under section 20 but is subsequently not owed the main accommodation duty by a housing authority, for example because they have refused a suitable offer of accommodation or are found to be intentionally homeless, then the children's services authority should, given the change in circumstances, once again ask them their wishes regarding being accommodated under section 20.

If the young person still does not wish to be accommodated under section 20 and is judged to have the capacity to make that decision they should be offered accommodation under section 17 with a child in need plan in place, until they no longer require accommodation or they reach the age of 18. In such cases, children's services and housing services will work together with the young person to ensure that they are not placed at risk of homelessness as they approach age 18.

The 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 the 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;
- 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 children's services 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 children's services and what they should expect to be the outcome of a referral to housing services if this is agreed is appropriate. Children's services may consider the use of appropriate advocacy services to ensure the young person fully understands the information.

If a referral is made to a housing authority, children's services 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 children's services, the two services should work together to ensure that the needs of the young person are met.

The referral does not diminish children's services responsibilities towards young people as set out in this guidance; rather it should be used to help strengthen communication between children's and housing services, it will not be an alternative to carrying out a child in need or early help assessment. For more information on joint protocols and wider joint working within Wirral see chapter 6.

4. Duties placed on housing services when 16 and 17 year olds who seek help because of homelessness, or being threatened with homelessness

Initial Assessment

If the young person is eligible and is (or may be) homeless and, by virtue of being 16-17 years old may have a priority need, the housing authority will have an immediate duty to secure interim accommodation (section 188(1) of the 1996 Act). In considering the suitability of accommodation 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.

Priority Need

The Homelessness (Priority Need for Accommodation) (England) Order 2002 provides that the following have a priority need for accommodation for the purposes of Part 7 of the 1996 Act:

- a. A child aged 16 or 17 who is not a relevant child for the purposes of section 23A of the Children Act 1989 **and** is not owed a duty to provide accommodation under section 20 of that Act (provision of accommodation for children in need).
- b. A person (other than a relevant student) who;
 - i. is under twenty-one, and;
 - ii. at any time after reaching the age of sixteen, but while still under eighteen, was, but is no longer, looked after, accommodated or fostered.

Guidance on the assessment of Children Act duties, including whether or not a section 20 duty is owed, are set out in chapter 3. **Housing authorities will be unable to determine whether a 16-17 year old has priority need under the 1996 Act until a child in need assessment has been completed. It is therefore essential that referrals are made and assessments completed in a timely manner.**

Arrangements for Children Act Assessments

If the outcome of the initial housing authority assessment is a finding that a young person is homeless but not eligible for housing assistance, or is a 'relevant child' owed an accommodation duty under the 1989 Act, immediate arrangements must be made for them to receive assistance from children's services.

Young people who are eligible for homelessness services should also be referred to children's services during the prevention and/or relief stages as set out below. There will also be circumstances in which a

further referral is needed, including for young people who have declined to become looked after, but subsequently lose accommodation or are no longer owed a duty by housing services.

The fact that a young person may be reluctant to engage with the Children Act assessment process is not in itself a basis for assuming that the young person has rejected any children's services' intervention to provide them with accommodation. Lack of co-operation is no reason for the local authority not to attempt to carry out its duties under the 1989 Act. In these circumstances, the assessment will need to involve careful recording of how the authority has attempted to engage with the young person to assess their needs in order to determine and provide appropriate services. Ultimately, it is not possible to force services on young people who persistently continue to refuse them.

Where children's services have decided that a section 20 duty is not owed, or the young person does not wish to be accommodated, housing services duties under Part 7 of the 1996 Act will continue.

In any case, where a housing authority provides accommodation for a child in need, including where the young person has declined to be accommodated under section 20, children's services will need to consider the provision of services under section 17 of the 1989 Act, set out in a child in need plan, and continue to work with housing services to ensure the young person's needs are met.

Where any safeguarding concerns emerge during their work undertaken with a 16 or 17 year old, the housing authority must make a referral to children's services according to local safeguarding procedures.

Prevention and relief duties

New duties towards people that are homeless or threatened with homelessness were incorporated within Part 7 of the Housing Act 1996 by the Homelessness Reduction Act 2017. These include duties to:

- a. undertake assessments;
- b. develop personalised housing plans; and
- c. take reasonable steps to prevent homelessness (for applicants who are threatened with homelessness) or relieve homelessness (for applicants who are already homeless).

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

- a. the circumstances that have caused them to be homeless or threatened with homelessness;
- b. their housing needs, and what accommodation would be suitable for them, their household and anybody who might reasonably be expected to live with them;
- c. 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 who applies or is referred to a housing authority 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 a priority need. A referral should be made to children's services identifying the threat of homelessness, and services should co-operate together in efforts to prevent the young person from becoming homeless.

A Personalised Housing Plan must be developed with the young person, setting out the reasonable steps that the housing authority and the young person will take to try and prevent them from becoming homeless. Any steps that the young person is required to take should be proportionate to the age, understanding and assessed capability of the young person to undertake the actions. Other relevant people, for example parents or social workers, may also be requested to take actions as appropriate.

If a young person is already homeless when they seek help, or they become homeless despite efforts to prevent it, housing services must attempt to relieve their homelessness by ensuring that suitable accommodation is made available to them (section 189B). A Personalised Housing Plan must also be produced, or amended to reflect the changes in housing circumstances. While a Personalised Housing Plan is prepared, emergency accommodation should be provided where necessary. If a child in need assessment has not already been completed one should be commenced immediately. Children's services should conclude the assessment within 3 working days or the agreed timescale. See chapter 3 of this guidance for more information on the child in need assessment process and timescales. The question of which further duties are 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 Act.

Housing services should work with children's services throughout the process of assessment, planning and attempting to prevent or relieve homelessness so that the child in need assessment and homelessness assessment, and the resulting plans and actions, are co-ordinated. This will enable a focus on working together to meet the needs of the young person and is likely to lead to better and more sustainable outcomes. See section 6 of this guidance for further information about joint working.

Ending the prevention and relief duties

The guidance on how the (section 195) prevention and (section 189B) relief duties come to an end is set out in full in [chapter 14 of the Homelessness Code of Guidance](#), the following are priority actions:

a. The housing authority is satisfied that the applicant has suitable accommodation available for occupation and a reasonable prospect of suitable accommodation being available for at least 6 months from the date of the notice.

For example through being confident that arrangements are in place for the young person to remain in the accommodation beyond their 18th birthday or for a planned transition to other suitable accommodation.

b. the housing authority has complied with the prevention or relief duty and 56 days have passed (regardless of whether the applicant is still threatened with homelessness in the case of the prevention duty or whether they have secured accommodation in the case of the relief duty) (sections 195 (8)(b) and 189B (7)(b)).

If the relief duty ends after 56 days without homelessness having been relieved, the housing authority will be required to reach a decision on whether the (section 193(2)) housing duty is owed.

c. The applicant has refused an offer of suitable accommodation and, on the date of refusal, there was a reasonable prospect that suitable accommodation would be available for the minimum prescribed period (sections 195(8) (d) and 189B (7) (c)).

If a young person refuses suitable accommodation, such as placement within a supported housing pathway, the prevention or relief duty may be brought to an end but without any effect on further duties that might be owed. Refusal of suitable accommodation within the relief stage will not disapply the young person from the main (section 193(2)) housing duty except where the offer was a 'final offer' of an assured shorthold tenancy or a Part 6 offer.

d. the applicant has become homeless intentionally from any accommodation that has been made available to them as a result of reasonable steps taken by the housing authority during the prevention or relief duty, whichever is relevant (sections 195(8)(e) and 189B(7)(d)).

e. the applicant is no longer eligible for assistance (sections 195(8) (f) and 189B (7) (e)).

f. the applicant has deliberately and unreasonably refused to co-operate (sections 195(10) and 189B (9) (b)).

If the relief duty ends in any of the ways set out in c- f above, **children's services will be required** to carry out further assessments of the young person's needs.

Intentional Homelessness

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

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 them to continue to occupy. For a young person to be considered intentionally homeless from accommodation provided during the prevention or relief stages (see 4.18 above) the accommodation must have been provided under the reasonable steps provisions and **not** as interim accommodation under Section 188 of the 1996 Act.

If, for whatever reason, a 16 or 17 year old is found to have become homeless intentionally, housing services should inform children's services immediately (see section on joint protocols in chapter 6 of this guidance). For further guidance about intentional homelessness, authorities should refer to [chapter 9 of the Homelessness Code of Guidance](#).

Deliberate and Unreasonable Refusal to Cooperate

The prevention and relief duties can be brought to an end under section 193B and section 193C respectively if an applicant deliberately and unreasonably refuses to take any of the steps that they agreed to take, or the housing authority set out for them to take where agreement could not be reached, in their

personalised housing plan. In considering whether a young person's actions were both deliberate and unreasonable, housing authorities must take into account their age and maturity, as well as the context in which they are making decisions. This would include considering the impact of homelessness on the young person's mental and emotional health, as well as their ability to understand the consequences of their actions and decisions.

Housing authorities must have procedures governing the service of notice on applicants who deliberately and unreasonably refuse to cooperate, and might wish to consider how children's services can contribute to these arrangements in respect of homeless 16-17 year olds. More information on non-cooperation is set out in [chapter 14 of the Code of Guidance](#) (14.43 – 14.48).

The Main Housing Duty

Where a young person who is eligible and unintentionally homeless does not have their homelessness prevented or relieved, housing authorities must assess what further duties (if any) are owed to them. If the young person is not a child in need owed duties under section 20 of the 1989 Act they will have priority need for accommodation and will be owed the main section 193(2) housing duty with the following exceptions:

- a) The relief duty ended due to the young person's unreasonable and deliberate refusal to cooperate, in which case the section 193C (4) duty is owed.
- b) The young person refused a final offer made under section 189B (9) (a) of the 1996 Act, or a Part 6 offer and so is disapplied from the main housing duty. A final offer must be of an assured shorthold tenancy of at least six months duration which is suitable for the young person's needs.

Authorities should refer to chapter 14 of the [Homelessness Code of Guidance](#) for guidance on the ways in which prevention and relief duties end, and chapter 15 for guidance on discharging accommodation duties.

Where children's services have been providing temporary accommodation and a young person is to be provided with settled accommodation by the housing authority, children's and housing services will need to agree a procedure for children's services to inform housing services that their provision of temporary accommodation will come to an end. This process should aim to minimise anxiety for the young person associated with concerns that they may again find themselves without anywhere to live. Children's services

and housing services will need to work together closely to ensure that the young person's ongoing housing needs can be met in the most practical and timely way possible.

Where section 20 and Part 7 duties are not owed

Where a young person aged 16 or 17 is homeless and requires accommodation, does not wish to be accommodated under section 20 of the 1989 Act but is subsequently not owed an accommodation duty by a housing authority, for example because they have refused a suitable offer of accommodation or are found to be intentionally homeless, then children's services should, given the change in circumstances, once again ask them their wishes regarding being accommodated under section 20.

If the young person still does not wish to be accommodated and is judged to have the capacity to make that decision, if it is necessary to safeguard and promote the welfare of the young person who is in need, they should be offered accommodation under section 17 of the 1989 Act until they no longer require accommodation or they reach the age of 18. In such cases children's services and housing services will need to work together with the young person to ensure that they are not placed at risk of homelessness as they approach age 18.

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

Housing services 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 authorities 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 services should seek consent to discuss a referral to another authority with relevant children's services, in both the area of housing services and 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 children's services 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.

5. The provision of suitable accommodation for 16 and 17 year olds.

Placements by children's services

[The Children Act 1989 Guidance and Regulations: Volume 2: care planning, placement and case review](#)

provides guidance on the placement of looked after children, and will therefore apply to young people who are accommodated under section 20 of the 1989 Act for a continuous period of more than 24 hours. Placement options include regulated settings such as foster care and children's homes. Sections 22C(6)(d) and 23(2)(f)(i) of the 1989 Act provides that young people may also be placed in 'other arrangements', not regulated under the Care Standards Act 2000, where such a placement best meets their needs. 'Other arrangements' may include supported lodgings, supported housing and independent accommodation where suitable support is provided.

Some 16 and 17 year olds who require accommodation may be reluctant to take up a placement in foster care or a children's home and the assessment of their emotional and behavioural development may indicate that they do not require the level or kind of supervision and support that foster or children's home care provides. The option to use 'other arrangements' offers scope to provide alternative accommodation and support. The extent of need for this particular group of service users is being reviewed as part of Wirral's overall sufficiency strategy for children looked after.

In accordance with chapter 3 of Part 4 of the Care Planning, Placement and Case Review (England) Regulations 2010 in every case the local authority must establish that the accommodation is suitable.

Regulation 27 of schedule 6 to the Care Planning Regulations set out the standards that the authority must be satisfied with in respect of the accommodation and young person.

Where a young person is placed in other arrangements the local authority must prepare a placement plan. Regulation 9 of the Care Planning Regulations requires a placement plan to be agreed with and signed by the appropriate person. An 'appropriate person' in relation to other arrangements is defined in regulation 2(1) under 22C(6)(d), as the person who will be responsible for the child at the accommodation;

Any support plan setting out how the supported accommodation service will support the young person should be integral to the placement plan and avoid duplication.

The placement planning process should involve an exchange of appropriate information included as part of the assessment process which informed the development of the looked after young person's care plan, so that the accommodation provider has a full understanding of the young person's needs and their role in meeting these needs. It will be essential that the provider appreciates the arrangements that the local authority proposes to put in place to make sure that the young person is adequately supported. The placement plan must be explicit about the respective roles and responsibilities of the placement provider and the young person's social worker, their Independent Reviewing Officer and of other staff employed or commissioned by the authority to contribute to the plan for the young person's care.

Placements by housing services

Accommodation secured by housing authorities under their functions under Part 7 of the 1996 Act must be suitable for the applicant and anyone who normally resides with them or might reasonably be expected to. For further guidance about suitability of accommodation, authorities should refer to [chapter 17 of the Homelessness Code of Guidance](#).

Consideration of whether accommodation is suitable requires an assessment of all aspects of the accommodation in the light of the relevant needs, requirements and circumstances of the person and their household. Factors to consider when determining suitability include physical standards and safety, whether the landlord is fit and proper, location and affordability.

Considerations for both children's and housing services

In considering suitability, both children's and housing services 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. Children's and housing services are reminded that **bed and breakfast accommodation, including hotels and nightly let accommodation with shared facilities, is not considered suitable for any 16 or 17 year old.**

Housing and children's services should be alert to the risks that may be associated with placing vulnerable young people in mixed age hostel settings with people who are considerably older than they are. Young people should **not** be placed in all-ages night shelter provision, even in an emergency.

Housing and children's services are reminded that 16 and 17 year olds are still children and it will not usually be appropriate for them to be placed in temporary accommodation without on-site support. Accommodation with visiting support may be suitable for some young people; where this is considered authorities should put in place arrangements so that young people can contact support services out of hours.

Whether accommodation is provided by children's or housing services, arrangements should be in place so that young people have the support that they will need to make a positive transition towards independence. This might include, for example, the provision of supported accommodation or supported lodgings where young people can remain beyond the age of 18 and develop the skills they will need to manage the transition to adulthood.

6. Joint working to prevent and resolve homelessness among 16 and 17 year olds

There is a clear legal framework for co-operation between children's services and housing services to meet the needs of children and young people. Section 27 of the 1989 Act empowers a children's services authority to ask other authorities, including any local housing authority, for 'help in the exercise of any of their functions' under Part 3; the requested authority must provide that help if it is compatible with their own statutory or other duties and does not unduly prejudice the discharge of any of their own functions. The Children Act 2004 broadened and strengthened the statutory framework requiring co-operation between relevant statutory services to improve outcomes for children and young people. Core legal

requirements are set out in *Working Together to Safeguard Children*, making it clear what individuals and organisations should do and what they can expect of one another.

The details of local working arrangements regarding 16 or 17 year olds who are threatened with, or who are homeless, are a matter for each area. But when a 16 or 17 year old is threatened with homelessness they are first and foremost a child and therefore children's services have the primary duty to them.

Provision of general advice and information

In order to help prevent homelessness, children's and housing services may want to consider collaborating to provide relevant information and advice to young people and their families regarding support services available in the area, available housing options for young people, their rights, and how to request further assistance.

Children's services can provide these services under section 17 of the 1989 Act, which sets out the responsibilities of children's services to provide services for children in need and their families. It is the general duty of every local authority:

- a. to safeguard and promote the welfare of children within their area who are in need; and
- b. so far as is consistent with that duty, to promote the upbringing of such children by their families

by providing a range and level of services appropriate to those children's needs.

Housing authorities have a duty to provide advisory services to any person in their area and a duty to do so specifically for groups at high risk of homelessness. For further guidance about general advice and information regarding homelessness, authorities should refer to [chapter 3 of the Homelessness Code of Guidance](#).

The information and advice provided should cover:

- a. preventing homelessness;
- b. securing accommodation when homeless;
- c. the rights of persons who are homeless or threatened with homelessness, and the duties of the authority, under this Part;

d. any help that is available from the authority or anyone else, whether under this Part or otherwise, for persons in the authority's district who are homeless or may become homeless (whether or not they are threatened with homelessness); and

e. how to access that help.

Wirral Council will develop a collaborative working relationship between children's services and commissioners of housing and support services to meet the housing needs of young people in the area including providing suitable accommodation placements for looked after children aged 16 and 17. Services jointly planned and secured might include supported accommodation projects, floating support services, foyers, supported lodgings, and more specialist housing provision for particularly vulnerable young people.

Compliance, Equality and Monitoring

Compliance and Escalation

The protocol should be adhered to for all cases of young people approaching the Council, where a young person has an accommodation need. It is the responsibility of the individual Team Managers to ensure that staff within their service areas receive appropriate training and guidance to ensure they comply with the protocol. However front line staff should be aware it is everybody's responsibility to work together to implement this protocol for the benefit of the young people concerned. It is recognised that from time to time individual staff may not be able to resolve issues (i.e. expectations for assessments within timescales have not been met) and this may need to be escalated. In the first instance where resolution is required staff should contact:-

Housing Options Service Manager – Wayne Tsoi

Head of Service Children's Services – Lynn Campbell

Continued failure and breaches of the protocol will be formally escalated using the LSCB's escalation procedure.

Equality & Diversity

The Equality and Diversity policies of each organisation signed up to this protocol must underpin the way in which services are provided.

All organisations are expected to value diversity and be committed to equality of opportunity and access to suitable accommodation for all young people regardless of age, ethnicity, gender, sexuality, culture, faith or disability.

Monitoring review & development

This Protocol will be reviewed one year after the date it comes into effect. Organisations and services involved with this Protocol are asked to provide feedback and performance information that can be collated and shared to improve services and inform and support collective commissioning intentions in Wirral.

Information will be collected on:

- Number of contacts to Housing Options
- Number of contacts to Children's Services
- Provision under Section 20 Children Act 1989
- Provision under Part 7 Housing Act 1996
- Current 16/17 years old awaiting suitable accommodation