



CHILDREN'S SERVICES AND HOUSING SOLUTIONS SERVICE

**A JOINT PROTOCOL SETTING OUT HOW WE WORK TOGETHER
WHEN 16 OR 17 YEAR OLDS WHO ARE THREATENED WITH
HOMELESSNESS**

August 2022

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The purpose of this joint protocol

Whilst they are often referred to as 'young people', all 16 and 17 year olds are legally children until they reach the age of 18. Because of this, Children's Services and Local Housing Authorities have different statutory duties to 16 /17 year old children who are homeless or threatened with homelessness.

Children's Services and the Housing Solutions Service will work together to prevent homelessness amongst young people aged 16 and 17. The protocol outlines how we will respond to young people aged 16/17 years old and aspires to achieve a set of co-ordinated services which set out a 'Positive Pathway' in Middlesbrough for this group of young people.

Understanding the legal duties to 16/17 year olds who are or may be homeless, as well as being alert to the breadth of safeguarding issues relating to teenagers, are critical aspects of our work in Middlesbrough with young people.

The purpose of this joint protocol is to ensure that young people are not 'passed around', being sent between Children's Services and Housing, but that they and their parents (or those with parental responsibility) get from Middlesbrough Council a timely and helpful response, which focusses on the well-being and safety of the young person and supports them to remain with family wherever it is safe to do so.

Partners to the joint protocol

This protocol has been jointly written and been agreed by Children's Services and the Housing Solutions Service.

There are other partners that we work with which play a key role in supporting young people aged 16/17 and their families. These agencies include:

- South Tees Youth Offending Service;
- Health including CCG
- Education
- Police
- Middlesbrough MACH
- Commissioned Services
- Housing

Shared principles underpinning this joint protocol

Homelessness results in poor life chances for young people as they make the transition to adulthood. We are committed to preventing homelessness and together we will work with young people and their families to achieve this where it is possible and safe to do so.

- The safety and welfare of the young person is paramount.
- All young people aged 16 or 17 will be able to access services, regardless of which service they approach

- We will minimise the number of times young people have to ‘tell their story’ through a joint assessment process and will not send young people from ‘pillar to post’ to meet with different professionals from Children’s Services and the Housing Solutions Service
- Front line staff will take into account the wishes and feelings of the young people with whom they are working, and provide young people with:
 - Clear and accurate information
 - Independent advocacy if required (NYAS), provided by Children’s Services
 - Good communication between Children’s Services and Housing.
 - Understanding and sensitivity to their needs
(refer to 1 minute guide)
- Earliest intervention and information sharing (subject to any necessary consents and bearing in mind child protection) will ensure that where it is possible young people will return home or are enabled to live with their immediate family, extended family or another responsible adult in the young person’s network.
- Statutory guidance will be followed when completing joint assessments for young people who present as potentially homeless and in need of accommodation and support services.
- Colleagues will have a good understanding of each other’s duties and requirement for information sharing and a shared goal to support the young person.
- Colleagues will ensure strong communication regarding the outcomes of joint assessments, and between front line officers. The levels of help a young person receives will be clearly confirmed to all involved.
- The young person will be kept informed of, and involved with, all progress and decisions made.
- Where accommodation is needed, this will be provided based on the assessed needs of the young person and in accordance with the relevant statutory duties of the Service which is placing the young person.
- Where accommodation is required, work will be undertaken with young people to reunify them with their families wherever possible and in the shortest appropriate timescale.
- B&B is **not** suitable for homeless 16 /17 year olds and will not be used.

Aims and objectives of the joint protocol

The overarching aim of this protocol is to support positive outcomes for 16/17 year olds at threatened with homelessness.

We will achieve this by:

- Preventing homelessness occurring wherever possible through early identification and a timely response.
- Establishing collaborative working between frontline officers through shared understanding of the respective legal duties, local shared processes, clarity of procedures and timescales, effective information sharing and timely interventions for young people.
- Making best use of Early Help, mediation services and family group conferencing to reunite families wherever possible
- Devising together easy to access information for young people and their families about: preventing homelessness; realistic accommodation options that are available and myth-busting around social housing tenancies for under 18 year olds; the rights of young people who are homeless or threatened with homelessness; other help that is available and how to access that help.
- Undertaking accurate and timely joint statutory assessments which meet both the requirements of Section 17 of the Children Act 1989, the Housing Act 1996 as amended by the Homelessness Reduction Act 2017
- Assisting young people to make informed decisions by giving them clear information about the outcomes of their assessments and options or resources available and the offer of an independent advocate if required.
- Ensuring young people have access to suitable short stay/emergency accommodation if required, with continued work with families as appropriate to re-unite young people with parents/extended family or stay with another responsible adult in the young person's network
- Developing a 'Positive Pathway' of accommodation and support for young people who are not able to stay within the family network
- Establishing joint monitoring arrangements in order that information gathered can improve our understanding of any trends, inform service development and commissioning .
- Developing a Young People's Accommodation and Support Group to broaden collaborative working and achieve greater consistency with regard to support plans and access to services.
- Facilitating a joint training opportunities to ensure continued understanding of roles and responsibilities and promote collaborative working.
- Reviewing the operational application of the joint protocol on a regular basis in order that there is learning from any disputes or difficulties with cases, as well as those cases where joint working has successfully taken place.

Information Sharing

The success of this joint protocol is dependent on the efficient and effective sharing of information between organisations.

Although all service users are asked for their permission to have their details recorded and shared – and may withdraw their permission at any time – all staff need to be aware of their information sharing obligations in relation to the safeguarding of children and young people.

When sharing or receiving information, agencies must acknowledge that any information relating to a service user is of a sensitive nature and must be kept confidential at all times.

If there is a need to share additional information on a one-off-basis, the parties concerned should consider whether the sharing is necessary to the agreement and document their considerations/findings, including any additional consents sought (and if not sought, an explanation as to why).

Consent should be sought and recorded by each agency who is sharing information where possible, however, information should be shared without consent if necessary if there are child protection and safeguarding concerns

Some 16 or 17 year old young people may refuse to give their permission for Children's Services to contact other agencies or share information for example, in order to make a referral to the Housing Solutions Service under the S213B 'Duty to Refer.' In these instances a referral cannot be made.

If a young person refusing to consent to provide the Housing Solutions Service with a copy of the child in need assessment or other relevant assessments, Children's Services, in the interests of safeguarding the young person's welfare, may decide that it needs to override consent and share with the Housing Solutions Service at least the outcomes of those assessments.

Unless there are clear reasons why this should not take place, if a young person aged 16/17 presents to the Housing Solutions Service as homeless or imminently homeless, they will need to be encouraged to give consent for a referral to be made to Children's Services, so a child in need assessment can commence. The Housing Solutions Service will also need to share with Children's Services the outcome of the young person's homelessness assessment. This is because children's law takes precedence over housing law in the case of a homeless 16/17 year old child and any homelessness decision cannot be made without joint work with Children's Services and a child in need assessment.

Both agencies must therefore make it clear to the young person that in order to jointly assist the young person, it is necessary to share information with each other, and what information they will share, notwithstanding the young person's refusal of consent. If the young person does refuse or withdraws consent, the implications of this must be fully explained.

Joint working arrangements in Middlesbrough

This part of the joint protocol is set out to reflect what happens when young people present or are referred to either Children's Services or the Housing Solutions Service, the joint assessment process, the legal duties which might be owed and local processes. **Please refer to the one minute guide.**

There are some groups of young people aged 16/17 whose circumstances mean that jointly additional considerations need to be taken into account if they are homeless or threatened with homelessness. These include:

Young parents

All 16 and 17 year olds are children until they are 18, including young people who already have children of their own. The statutory duties and the joint assessment process will therefore apply young parents aged 16/ 17.

If a 16/17 year old young woman who is pregnant or has a child or children of her own, Children's Services' duties will be determined towards the young person and her child/ren individually.

16/17 year olds in relationships with older partners

If a young person aged 16/17 is in a relationship with an older person, who is aged 18 or over, any duties towards the 16 or 17 year old, including types of placement or accommodation will be considered in the context of that relationship.

16 /17 year olds in custody

Where a young person aged 16/17 is in custody, is not already looked after or a 'relevant child' and may be homeless on release because they have no accommodation to return to, they will require a child in need assessment before they leave custody. Youth Offending services would inform the Local Authority of any young person who enters custody the day they enter and work in partnership with the Local Authority for planning their release. This is a joint working agreement between YOS, Middlesbrough and Redcar Local Authority. The young person's Youth Offending Service case officer will need to ensure that a referral is made to Children's Services for a child in need assessment.

Youth Offending Service will have worked on resettlement planning with the young person and their family from the start of the sentence. The Youth Offending Service case officer should be involved in the joint assessment process, as well as any family members and other services.

There is a duty under Section 213B of the Housing Act on the Youth Offending Service to make a referral, with the young person's consent, to the housing authority of the young person's choice. This referral should be made with as much notice as possible.

The joint assessment should explore all possibilities of returning the young person to their family home, their extended family network or to a responsible adult in the young person's network.

There is a local agreement in place that details the joint working practices between STYOS and Children's Services, including the need for appropriate accommodation for young people 16+ who are leaving custody. This should be considered alongside this protocol. HMIP (which is the regulatory body for Youth Offending Services) have recently released a new set of inspection standards, and there is now a stand-alone resettlement standard. A resettlement policy will be written and distributed in due course.

Young people from other local authority areas

Where a young person from another local authority area approaches Middlesbrough Council as homeless, the duty to assess the young person's needs will be with Middlesbrough Council, unless already open to another Local Authority Children's Services. An initial interview combined with some enquiries in the local authority area where the young person came from will assist in establishing if it is possible for the young person to return from the area they have come from.

The welfare of the child is paramount and this should be at the heart of decisions to assist young people from other areas with any immediate accommodation needs if they are homeless. Any negotiation or resolution of dispute concerning which Children's Services authority is responsible should not override the need to assist the young person with their immediate situation.

Initial Approach to Children's Services

This applies in all instances where a young person who is homeless or threatened with homelessness makes their first contact with Children's Services, or they are already receiving services from Children's Services. This includes 16/17s who are:

- already a child in need with a allocated social worker
- or have been referred by another organisation or a Service within the Council e.g. Youth Offending Service
- or have approached Children's Services directly themselves – Middlesbrough MACH

At this point Children's Services will take some basic information regarding the young person and their circumstances. If the young person has an active social worker, this information will be shared with them.

If the young person does not have a social worker, screening will take place by a Social Worker within MACH (multi-agency Children's hub) within 48 hours of receipt of the referral/contact.

If it is the case that the young person is or could be homeless or threatened with homelessness within 56 days, consent is needed from the young person to make a referral to the Housing Solutions Services under the 'Duty to Refer'.

This will inform the Housing Solutions Services there is a 16/17 year old who may be homeless or threatened with homelessness. Note that this will not in any way diminish the responsibilities held by Children's Services, but will formally notify the Housing Solutions Service.

The Housing Solutions Officer based in MACH and Children's Services will then communicate with each other and agree what the next steps will be in terms of undertaking a joint assessment together and any prevention work which could run alongside or in conjunction with this process. A child in need assessment is completed over a 45 day period. A allocated social worker will be making contact with the young person to visit within 72 hours and link in with the housing solutions coordinator once referred. A child in need assessment must be triggered where homelessness is actual or is 'imminent' - this means where homelessness is likely within 56 days.

If the young person needs short stay or emergency accommodation during the assessment process and the initial approach was to Children's Services :

Where a young person has approached or been referred to Children's Services on the basis of being homeless, and if they require short stay or emergency accommodation, in the first instance Children's Services will determine if there is someone with parental responsibility who is willing to offer or arrange accommodation for the young person.

If this not possible or appropriate then suitable accommodation will be found, offered and funded under Section 20 of the Children Act 1989 until the outcome of the joint assessment is known. Consent must be in place for this.

Accommodation needs of 16/17 year olds will be discussed at the young person's panel and appropriate placements made, emergency accommodation will be provided in one of the crash pads within our supported housing schemes if there is a vacancy.

Where a young person is placed for more than 24 hours under Section 20 they will become a 'looked after child' which entails further duties and responsibilities placed on the Local Authority for that young person.

Note that emergency placements should not be made under Section 17 for a 16/17 year old who is or may be homeless and is not with his or her parent/family. Any placement, even for a short time ,would be as a Section 20 placement.

Initial approach to the Housing Solutions Service

If the Housing Solutions Team conducts an initial interview with the young person first and is satisfied there is reason to believe they may be eligible, homeless or threatened with homelessness within 56 days, this triggers the commencement of Section 184 homelessness duty to make enquiries.

An immediate referral will be made to Children's Services at this point, requesting joint assessment, comprising of the child in need assessment and the statutory homelessness assessment is carried out.

The Housing Solutions Team will not owe a duty to a 16/17 year old if it is established that the young person is:

- already a Looked After Child (under Section 20 or Section 31 of the Children Act 1989)
- or is a 'relevant' child, who is aged 16/17 and has already left care, there will be no further statutory duty owing
- or is not eligible in terms of immigration control
- or is not homeless or threatened with homelessness, because they have somewhere that is available to them and it is reasonable for them to occupy

In these instances a referral must be made to Children's Services. Issues regarding the welfare of the young person and safeguarding should be shared.

The Housing Solutions Service will seek to co-operate with Children's Services in these instances if necessary, as set out in Section 27 of the Children Act 1989, as long as in so doing it does not prejudice the discharge of their own functions.

If the young person needs short stay or emergency accommodation during the assessment process and the initial approach was to the Housing Solutions Service:

Where a young person has approached the Housing Solutions Services on the basis of being homeless, and if they require short stay or emergency accommodation, in the first instance the Housing Solutions Service will determine if there is someone with parental responsibility who is willing to offer or arrange accommodation for the young person.

If this not possible or appropriate suitable interim accommodation will be found, offered and funded under Section 188 of the Housing Act 1996 until the outcome of the joint assessment is known. A claim for housing benefit can be made at this point.

If they are already known to Children's Services, Children's Services will explore placement of the young person into suitable short stay or emergency accommodation.

When the initial approach is outside usual office hours

Where 16 or 17 year old young people present or are referred as homeless outside of office hours, the priority must be the safety and well-being of the young person and Children's Services will support until the next working day when a joint assessment can take place. In this instance if the contact is out of hours, the Emergency Duty Team are to be contacted.

Children's Services with the Youth Offending Service will communicate with agencies including the Police regarding the importance of contacting the Out of Hours Service where there is any 16/17 year old with no accommodation available to them out of usual working hours.

Where a family with children approach services out of hours, whether the initial contact be EDT or Housing Solutions, there will always be checks completed with EDT to ensure there are no current safeguarding issues relating to the family being placed in temporary accommodation. This is to confirm this is an appropriate placement for them. The outcome of any checks will be shared with Housing Solutions Team via written confirmation. Temporary accommodation may be a hotel stay until further exploration the next working day.

The Joint Assessment process

When a young person is not currently active to Children's Services; With the consent of the young person, a SAFER referral to the MACH (Multi-Agency Children's Hub) will be made. A contact will then be created by MACH for screening. This will be undertaken by a Children's Social Worker over a maximum of 48 hours, who as part of screening will liaise directly with the Housing Solutions Service. It will also include liaison with the young person and the Duty Assessment Team Manager/Social Worker any other professionals involved with the young person.

The joint assessment will commence immediately following screening. The allocated social worker will have a maximum of 72 hours to make contact with the young person and commence assessment, including liaison with Housing Solutions Service. In emergency circumstances, screening and visiting will be completed that day.

If the young person has an existing relationship with Children's Services and has a Child in Need Plan, this should be reviewed with the young person and their family within 10 working days of the joint assessment.

Children's Services will lead the joint assessment process from the beginning, reflecting the legal position that in the case of children in need of accommodation, the Children Act 1989 has primacy over the Housing Act 1996 in providing for 16 and 17 year olds who are not with their parents or anyone with parental responsibility for them.

All officers are reminded that there are very few exceptions to a 16/17 year old who is homeless not being assessed as a 'child in need of accommodation'.

It is critical that throughout the assessment process, that opportunities to prevent or relieve homelessness are taken jointly.

The joint assessment will cover both the child in need assessment and also the housing authority statutory enquiries into eligibility, homelessness and the young person's housing circumstances, housing needs and any related support needs.

The joint assessment will involve:

- the young person
- their family
- any other significant family friends
- other agencies or services which work with the young person or the family

The joint assessment will aim to determine the following:

For Children's Services:

- Are they are child in need, as set out in Section 17 of the Children Act?
- Does the need arise because they are homeless and require accommodation?
- Is that need the result of Section 20 (1 (a-c)) or Section 20 (3) or Section 20 (4)
- Do they usually live in Middlesbrough?
- What are their wishes and feelings regarding the provision of accommodation
- What considerations (having regard to the young person's age and understanding) is to be given to their wishes and feelings?
- The reasoning for them presenting as homeless
- Considering impact on any siblings they may have

For the Housing Solutions Service:

- Is the young person eligible in terms of immigration control or other reasons regarding their status in the UK?
- Is the young person homeless or threatened with homelessness within 56 days?
- Does the young person have a priority need for accommodation?
- What are the circumstances that have led to their current situation of homelessness?
- What are their accommodation needs?
- What are the relevant support needs to be addressed and who will assist them, in order that they can manage in their accommodation (whether this is to stay with family/friends or move into alternative accommodation)

Decisions regarding the ongoing responsibility to provide any accommodation needed will be dependent on the outcome and recommendations following completion of the joint assessment.

Wishes and Feelings

The joint assessment will also consider the young person's wishes and determine the most appropriate pathway for the young person, taking into account the legislative context, the statutory guidance and the importance of, where safe and possible, preventing homelessness and reuniting young people with their families, and supporting them in resolving family tensions and practical challenges.

It is important that all workers emphasise the long term positive benefits to remaining in, or returning to, the family home/network and maintaining family relationships where this is safe and appropriate to do so, and that these are focused on.

If a young person cannot stay within the family home or extended family or friends network, there will need to be discussions regarding becoming looked after by the Local Authority. Decisions on becoming looked after should be based on full and impartial information about the practicalities and support offered if a young person is in care, being a care leaver and what would happen if they did not become looked after but decided to be accommodated under

Housing Act duties. This work should be supported by an independent advocate appointed by Children's Services where appropriate.

Professionals conducting the child in need assessment must provide impartial, balanced and realistic information about the support that the young person can expect as a Looked After Child including details of the care plan, where they might live and with whom, regular reviews and social worker visits and subsequently, if the criteria are met, entitlements as a care leaver.

Children's Services and the Housing Solutions Service must also ensure that a young person who is homeless is informed of their entitlements and receives accurate information about what assistance may be available to them if they do not become looked after, and how any entitlement for assistance will be determined. In particular, young people will need to understand the ways in which a homelessness duty can be ended and the implications of this, for example, where someone is homeless but turns down a 'suitable offer' of accommodation, or the possible risk of being assessed as intentionally homeless.

Working with families

As part of their enquiries, Children's Services and/or the housing solutions team will want to make contact with the young person's parents or carers and conduct a home visit where possible or appropriate. They may also work with other agencies as appropriate, to gather relevant information and to explore whether or not it is possible and safe for the young person to return home. Of note, we should also be considering any siblings linked to the young person presenting as homeless in terms of any impact upon them.

In some circumstances (where forced marriage, trafficking or sexual abuse, are suspected, for example), it will not be appropriate to contact the young person's parents or carers as this may put the young person at risk. Where there is any concern of a risk to the young person or disclosure of abuse, information must be shared between Children's Services and the Housing Solutions Service.

Housing Solutions staff who are concerned that making contact with parents or carers may place the young person at risk for any reason, must seek guidance from Children's Services before making that contact.

However, in most instances, the use of prevention work, such as home visits, negotiation, mediation and family group conferencing, can assist young people and their families to stay together. This can take place alongside the statutory assessment activity.

Where it is not possible or safe for the young person to return home, other options will be explored by Children's Services and/or the Housing Solutions Service, including the placement of the young person with members of their extended family or friends.

Children's Services and the Housing Solutions Service will work together to conclude the determination of duties under the Children Act 1989 and Housing Act 1996 and where there are duties to assist put in place a suitable package of assistance which reflects the young person's wishes and feelings, is realistic and will best assist the young person in moving on to

independence, including retaining supportive social and family networks, plans for education, training and work.

During and after the child in need assessment, Children's Services staff and Housing Solutions Service staff will continue to explore the possibility of the young person returning to family, their extended family or to friends and, where this is a safe option, they will positively support this. Appropriate consideration will be given to the young person's informed choice and their level of resilience and resourcefulness to manage in the accommodation provided, alongside their vulnerability.

Actions following the outcome of the Joint Assessment

Following the joint assessment, Children's Services and the Housing Solutions Services will be in a position to determining whether:

- The young person is a child in need of services under Section 17 of the Children Act 1989 or a child in need of protection under Section 47 of the Children Act 1989
- Children's Services should offer accommodation under Section 20 of the Children Act 1989
- There are any Early Help Services , or other services which could be provided to meet identified needs
- Any duties are owed under Part 7 of the Housing Act 1996

The outcome of the joint assessment will be communicated on completion, to the young person, and if appropriate, their parents or people with parental responsibility. In many instances, the child in need assessment will determine that the young person is in need under Section 17 of the Children Act 1989, but does not require housing, because he/she can stay at home, or with their extended family or friends, or may already be living independently. It will also inform the package of support to facilitate and maintain the return home, and prevent future homelessness.

The actions following the joint assessment and the determination of duties are summarised below:

If a duty is owed under Section 17 AND Section 20 applies Children's Services will:

- Discuss the assessment outcomes and options for the future with the young person ensuring that they can make a fully informed decision on whether to accept the offer of assistance under Section 20.
- In the case of an exceptionally vulnerable young person, discuss with the Children's Services Family Placement Team and Commissioning Services regarding the availability of foster or residential care options subject to the necessary approval.

If the young person accepts the offer of assistance under Section 20, Children's Services will:

- Inform the Housing Solutions Service and any other referring agency.
- Arrange a placement under Section 20 in suitable accommodation taking over financial responsibility for the young person's accommodation if they have previously been placed by the Housing Solutions Service
- Put in place a care plan and allocated social worker for the young person
In accordance with looked after children procedures.

If the young person does not accept the offer of assistance under Section 20 Children's Services will:

- Consider if there is a need for some independent advocacy and if so, arrange this (National Youth Advocacy Service NYAS).
- Assess the capacity of the young person to make this decision.
- Advise and facilitate the young person to contact the Housing Solutions Service as soon as possible.
- Inform the Housing Solutions Service by email including the reasons why the young person refused assistance.
- Develop a Child in Need plan for the young person, based on their other assessed support needs
- Inform the providers of the short stay/emergency accommodation if the young person has been placed in emergency accommodation of the date Children's Services will cease payment.

If the young person is not owed any duty by the Housing Solutions Service, because, for example, they are found to be intentionally homeless, but does not accept the offer of assistance under Section 20 of the Children Act, Children's Services will:

- Undertake further work on their wishes and feelings about becoming looked after and the implications of refusing this when there is no Housing duty owed to them
- Consider accommodation under Section 17 if they again do not consent to accommodation under Section 20 and ensure this is signed off by senior managers
- Draw up a Child in Need plan which reflects the need for both accommodation and other support and how this will be provided

The Housing Solutions Service actions after being informed by Children's Services of their determination of duties under the Children Act 1989 are summarised below:

If a duty is owed under Section 17 and Section 20 of the Children Act 1989 applies and the young person has accepted the offer of assistance under Section 20 the Housing Solutions Services will:

- Issue a decision to end the relief duty if the young person is still within the relief duty and has accepted Section 20, due to them having accommodation available. If the decision on Section 20 is reached whilst the main housing duty is being assessed, a non-priority decision letter will be issued due to them being a looked after child.
- Assist Children's Services in finding suitable Section 20 placement options, if requested to do so.
- If the young person has previously been placed in emergency accommodation by the Housing Solutions Service, notify the Housing Benefit team that housing benefit entitlement has ceased, and the provider of accommodation that invoices should be directed to Children's Services from this point on.

If a duty is owed under Section 17 but Section 20 does not apply because the young person does not wish to be looked after, the Housing Solutions Service will

- Determine which duties are owed under Part 7 of the Housing Act 1996.
- If the young person is found to be homeless, accept the relief duty, draw up a Personal Housing Plan and place the young person into suitable interim temporary accommodation under Section 188 and arrange for young person to claim housing benefit.
- Liaise with Children's Service about meeting the support needs of the young person and the development of a Child in Need plan.

If a duty is owed under Section 17 but Section 20 does not apply because the young person is not homeless, the Housing Solutions Service will:

- Determine if a prevention duty is owed under Part 7 of the Housing Act 1996 and if so, draw up a Personal Housing Plan.

- Liaise with Children's Service about meeting the support needs of the young person and the development of a Child in Need plan.
- If there is a change in circumstances and the young person subsequently becomes homeless, they should be re-referred to Children's Services for a further assessment.

If the young person is homeless but there is no duty is owed under Section 17 of the Children Act 1989

- Call a case meeting to discuss the decision with Children's Services, to ensure it is correct and formulate a plan of support/actions, based on the limited set of exceptions to this decision in the case of a homeless 16/17 year old
- If this is the case, determine which duties are owed under Part 7 of the Housing Act 1996
- If they are (or may be) homeless, place the young person into suitable interim temporary accommodation under Section 188 and arrange for young person to claim housing benefit.
- Draw up a Personal Housing Plan setting out how their housing and support needs will be met.

If the young person is homeless but no duty is owed to assist under the Housing Act (for instance, if the young person is found to not to be eligible, or is found to be intentionally homeless) the Housing Solutions Service will:

- Follow local procedures to end emergency accommodation (if any has been provided) allowing the young person a reasonable period of time to make alternative arrangements.
- As a matter of urgency, discuss the decision and the young person's future housing circumstances with Children's Services and re-refer the young person for a further child in need assessment. If a relationship with Children's Services already exists discuss with the social worker/case holder

Financial support for the young person

Any child assessed as a child in need must have a Child in Need plan. This applies to young people who are homeless but have declined the offer of becoming looked after under Section 20 of the Children Act 1989. They still require in law a Child in Need plan which should set out the support to be offered, who will provide this and what might happen if, for example, there were a further risk to the welfare of the child.

Provision of financial support is a critical part of the Child in Need plan. Depending on their circumstances, the young person may be able to claim Severe Hardship or Income Support/Universal Credit. However, in order to do this, they will need to satisfy the DWP / Jobcentre Plus that they are estranged from their family.

If a young person is unable to secure crisis benefits, Children's Services will need to provide the young person with reasonable living expenses, as a last resort, in accordance with its duties under Section 17 of the Children Act 1989.

If financial support is requested by the Housing Solutions Service, Children's Services will contact the young person to discuss their financial situation. In the event that a request for financial support is declined, Children's Services must provide the young person and the Housing Solutions Service, if it made the request, with written confirmation of the reasons for the decision and the process that the young person (or Housing Solutions Service) needs to follow to appeal against the decision or make a complaint.

Escalation process

If any point in the practical working of this joint protocol, or associated procedure, there is disagreement between Children's Services and the Housing Solutions Service, then either or both parties should escalate this to their direct line manager, or where this is not possible, to the next management tier as appropriate.

Disagreements should be routinely dealt with via peer to peer management discussions to seek to resolve the issue, taking into account any safeguarding issues and keeping the young person as the focus. The Council will make available structure charts to enable discussions between the appropriate tiers of management.

Disagreements could arise in a number of areas but are most likely to arise around:

- Thresholds for services
- Roles and responsibilities
- The need for action and completion of assessments
- Communication

Problem resolution is an integral part of professional co-operation and joint working to safeguard and promote the well-being of children and young people. While often a positive sign of developing thinking within a dynamic process this can be reflected in the immediate term as a lack of clarity in procedures or approaches. Professional disagreement is only dysfunctional if not resolved in a constructive and timely fashion.

Attempts at problem resolution may leave one worker or agency believing that the child remains at risk of significant harm. This person or agency has responsibility for communicating such concerns through agreed channels.

It is the responsibility of every professional to “problem solve”. The aim must be to resolve professional disagreement at the earliest opportunity and as swiftly as possible always keeping in mind that the child and young person’s safety and welfare is the paramount consideration.

If a professional disagreement arises and the issue cannot be resolved between practitioners, the matter must be referred to the Line Manager who will discuss with their opposite number in the other agency in the hope that the issue can be resolved.

Failure to resolve disagreements between line managers must be further escalated to the Head of Service within the respective organisations. If there continues to be no resolution, then the matter should be escalated to the Director of Children’s Care for consideration.

A clear record of decision making should be recorded against the child’s file and the appropriate case management system in other agencies.

Reviewing this joint protocol

This protocol will be reviewed annually, or sooner if required due to changes in legislation and/or government guidance. Monthly operational reviews will be held between managers of Children’s Services and the Housing Solutions Service.

Monitoring

Monitor the number of young people presenting as homeless or referred as homeless to Children’s Services. In terms of referrals to the MACH, this will be monitored within the monthly score card.

Monitor homeless applications to the Housing Solutions Service

Monitor the number and timescales for Child in Need assessments carried out by Children’s Services 16 and 17 year olds who have presented as homeless.

Monitor the number and percentage of young people who become looked after due to being homeless.

Monitor the outcomes for those not owed a section 17 duty.

Monitor the number of young people accommodated via the young person’s panel and outcomes of their placements.

Training

The Housing Solutions Manager will attend regular Children's Services team meetings to discuss the protocol and will meet with new/agency staff to make sure they are familiar with the protocol. Other avenues will be explored for example, E-Learning and podcasts.

APPENDIX 1

The Legal Framework

The legal framework for responding to 16/17 years old presenting as homeless is set out in:

- Section 17 and Section 20 of The Children Act 1989
- Part 7 of the Housing Act 1996, as amended by the Homelessness Reduction Act 2018 and the Priority Needs Order 2002

The key point for all officers to be aware of regarding the legal duties to homeless 16/17 year olds is that Local Authority's duty under Section 20 of the Children Act 1989 takes precedence over its duties under the Housing Act 1996 in providing for children in need of accommodation aged 16/17.

In almost all cases of homelessness of a 16/17 year old, if they are homeless they would be assessed as child in need of accommodation and entitled to assessment under Section 17 of the Children Act 1989.

There are only two circumstances in which a Local Authority might find that a homeless young person should not be accommodated under Section 20, and may instead be owed duties under Housing Act 1996. These are where the young person is:

a. not a child in need (as defined under S17 of the Children Act 1989);

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.

Section 20 of the Children Act 1989

The decision to accommodate a child under Section 20 is one that must be based on legal duties and professional judgment, with the best interests of the child and their welfare driving decision making and with consent.

Middlesbrough Council has a responsibility under Section 20(1 a-c) of the Children Act 1989 to accommodate a child where

a. There is no one with parental responsibility for them

b. The child is lost or abandoned

c. The person who did provide the child with accommodation is being prevented from doing so.

Middlesbrough Council also has a responsibility under Section 20(3) and Section 20 (4) of the Children Act 1989 to accommodate a child, as set out below:

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/her with accommodation.

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

Where a child is to become looked after under Section 20:

20 (6) Before providing accommodation under this Section, a local authority shall, so far as is reasonably practicable and consistent with the child's welfare—

- a) ascertain the child's wishes and feelings regarding the provision of accommodation; and*
- b) give due consideration (having regard to his age and understanding) to such wishes and feelings of the child as they have been able to ascertain.*

Section 17 of the Children Act 1989

Section 17 assistance can be used in a preventative way, intended to support children and families to remain together. In this context it is therefore likely to be time limited and targeted support.

In the case of a homeless 16/17 year old, the powers of local authorities to provide accommodation under Section 17 of the Children Act 1989 cannot be used as a substitute for their duty to provide accommodation under Section 20(1) of the Children Act 1989 if they are assessed as being a child in need. Young people in this position should become looked after.

Where a young person is assessed as being homeless and is a child in need under Section 17 but decides they do not wish to become looked after under Section 20 (and has the capacity to make this decision) they should have a Child in Need assessment to formulate a plan, which would set out the support from Children's Services and other agencies (as agreed). The accommodation would, in these cases, be provided under Part 7 of the Housing Act 1996, unless there were specific circumstances that meant the Housing Solutions Service had no statutory duty to the young person. These situations can be found in the joint statutory guidance, '*Prevention of homelessness and provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation*', in points 3.60 and 3.61 and points 4.28 and 4.29 here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/712467/Provision_of_accommodation_for_16_and_17_year_olds_who_may_be_homeless.pdf

Part 7 of the Housing Act 1996 (as amended by the Homelessness Reduction Act 2017)

The homelessness legislation is set out in Part 7 of the Housing Act 1996. Some of the key duties and powers available to housing authorities which are most relevant to the situation of 16 17 year olds being homeless or threatened with homelessness are:

Section 183: A duty to take a homelessness application for anyone who may be homeless or threatened with homelessness within 56 days

Section 184: A duty to make enquiries to satisfy themselves they are eligible for assistance (in terms of immigration control) and if so, what duties may be owed to them

Section 189A: A duty to assess:

What are the **circumstances** that have caused their homelessness/the threat of homelessness

What are their **housing needs**?

What, if any, are their other **support needs** to be addressed to enable them to keep and/or obtain and sustain accommodation?

A duty to provide a Personalised Housing Plan (PHP) which sets out the ‘reasonable steps’ the authority will take to try and **prevent** or **relieve** homelessness. The PHP will also include steps the applicant will take, and can identify the support from other agencies

Section 195: The ‘prevention’ duty applies where an applicant is not homeless but is threatened with homelessness within 56 days. The authority must take reasonable steps to help the applicant to secure that accommodation does not cease to be available for the applicant's occupation

Section 189B: The ‘relief’ duty applies where an applicant is homeless. In these cases, the authority has 56 days the authority must take reasonable steps to help the applicant to secure that suitable accommodation becomes available for the applicant's occupation for at least 6 months.

Section 189: Sets out which groups have a ‘priority need’ for accommodation if homeless. This includes 16- and 17-year-old homeless applicants, who must be accepted as having a priority need except for an applicant who is

- a relevant child. A relevant child is a child who is aged 16 or 17, who has now left care but has spent at least 13 weeks in care while over the age of 14, at least one day of which must have been when s/he was over the age of 16.

or a child in need to whom a local authority owes a duty to provide accommodation under section 20 of the Children Act 1989.

Section 188: The provision of temporary accommodation. Where a local housing authority have reason to believe that an applicant may be homeless, eligible for assistance and have a priority need, they must secure that accommodation is available for the applicant's occupation.

Section 213B: The duty of a specified public body to refer cases to a housing authority if it is considered someone is homeless or threatened with homelessness . This is where a specified public body, which includes Children’s Services and Youth Offending Services is required to refer cases where it is considered that a person is homeless or threatened with homelessness.

This can only take place with consent from the person for the public body to make the referral and also for the housing authority to then contact the person.

The referral does not diminish children’s services responsibilities towards young people. 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. (see point 3.36 in the joint statutory guidance, '*Prevention of homelessness and provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation*')

Case law

The most significant of piece of case law is the judgment in the House of Lords, (R (G) v Southwark LBC in May 2009, which did not change the law, but clarified the legal position, in terms of where responsibilities lay between Children's Services and Housing Authorities in the case of a homeless 16/17 year old. It also clarified the inter-play between Section 20 and Section 17 of the Children Act 1989.

<https://publications.parliament.uk/pa/ld200809/ldjudgmt/jd090520/appg-1.htm>

This case law is reflected in the MHCLG and Department for Education joint statutory guidance

The Mental Capacity Act 2005

The Mental Capacity Act (2005) is the law which provides protection and support for people who, even on a temporary basis, cannot make decisions for themselves. It lays out how we should assess whether someone can make their own decisions and, if not, how decisions should be made for them. Everyone who is caring for or supporting someone who may lack capacity to make their own decisions must comply with Mental Capacity Act I and this should also be borne in mind when considering a young person or their parent's decisions about accommodation.

Statutory guidance

This joint protocol reflects national legislation and guidance with respect to local authorities' duties:

- ***The Prevention of homelessness and provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation***, published in 2018 jointly by the Ministry of Housing, Communities and Local Government (MHCLG) and the Department for Education. This reflects all changes to legislation and case law in relation to 16/17 year olds and how Children's Services and Housing Authorities will work together. It starts with the premise that most young people are best living with their families or kin and requires local authorities to help them to achieve this wherever possible.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/712467/Provision_of_accommodation_for_16_and_17_year_olds_who_may_be_homeless.pdf

- ***Working Together to Safeguard Children***, published in 2018 by the Department for Education. This sets out how agencies will work together to safeguard children and young people and promote their welfare. This guidance promotes a child centred and coordinated approach to safeguarding, expecting compliance by local authorities. This is informed by two key principles:

- safeguarding is everyone’s responsibility: for services to be effective each professional and organisation should play their full part; and
- a child-centred approach: for services to be effective they should be based on a clear understanding of the needs and views of children.

<https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

- ***The Children Act 1989 guidance and regulations, Volume 2: care planning, placement and case review***, most recently updated in 2015 by the Department for Education. This sets out the legal duties, considerations and guidance for looked after children, including types of and suitability of placements.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/441643/Children_Act_Guidance_2015.pdf

- ***The Children Act 1989 guidance and regulations, The Transition to Adulthood for Care Leavers***, most recently updated in 2015 by the Department for Education. This sets out the legal duties, considerations and guidance for young people who are care leavers.

<https://www.gov.uk/government/publications/children-act-1989-transition-to-adulthood-for-care-leavers>

- ***The Homelessness Code of Guidance*** most recently published by the Ministry for Housing, Communities and Local Government (MHCLG) in 2018. This sets out the detailed guidance on how housing authorities should exercise their functions in respect of part 7 of the Housing Act 1996 as amended by the Homelessness Reduction Act 2017. Chapter 8 of the Code of Guidance concerns Priority Need for accommodation and this includes 16/17 year olds.

<https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities>

Appendix 2

Young person's Panel Referral Form August 2022



Young Person's
Panel Referral Form

One Minute Guide



One minute guide
young people.docx

Young Person's Panel Referral Arrangements



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Panel Referral Arran