

**Leicestershire
16 and 17 year old protocol
FINAL**

November 2022

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1. Scope of the Protocol

Leicestershire County Council, Children's social care, Blaby District Council, Charnwood Borough Council, Harborough District Council, Hinckley and Bosworth Borough Council, Melton Borough Council, North West Leicestershire District Council, Oadby and Wigston Borough Council and partner agencies working with young people and their families in Leicestershire are committed to achieving the best possible outcomes for young people who present at risk of homelessness or in housing need.

This Protocol is an agreement which establishes the roles and responsibilities of different agencies 16- and 17-year-olds who are homeless or threatened with homelessness within 56 days. It outlines the respective statutory responsibilities of Leicestershire County Council Children's social care (CSC) and the Local Housing Authorities (LHA's). In addition, it details the practical joint working arrangements between the LHA, CSC and other agencies which can assist with the housing and support of homeless 16- and 17-year-olds in the County.

Both CSC and LHA's have statutory duties towards young people aged 16 and 17 years old.

2. Purpose of the Protocol

The Protocol underpins the delivery of the service ensuring that there is a sharper focus on prevention from becoming homeless to enable young people to engage in education, employment and training and prepare for independence.

The Joint Working Protocol aims to define the working arrangements for all agencies involved in supporting 16- & 17-year-olds who need advice and assistance due to struggling with accommodation, or at risk of being homeless within 56 days. All organisations involved are committed to working together to support families to stay together.

Young people may become homeless for a variety of reasons, 16- and 17-year-olds who are struggling with housing or threatened with homelessness are likely to be vulnerable and will often be at risk in the absence of support. Supporting, reunifying with family, safeguarding, and promoting the welfare of these young people should be central to service provision. It is essential that organisations work together to plan and provide services that are centred on young people and their families to continue living at home, which is often the best place for young people.

This protocol defines the pathways young people who present as struggling to remain at home can follow to access support. The effective implementation of the pathway relies on all agencies working together and delivering agreed actions. Key agencies include all 7 Leicestershire District Councils (DC's), Leicestershire County Council (LCC).

Leicestershire County Council are not co located at all district councils and so this protocol aims to make the experience for the young person seamless by ensuring all organisations work together towards one aim. It also aims to ensure that a vulnerable group of young people receive the support that they need to either return home, stay close to their family, find alternative accommodation and to achieve their

potential. It also aims to ensure that all agencies, which have a statutory duty towards this group of young people, can understand and discharge their duties.

3. Overview of Legislative Context

The House of Lords Judgement in *R (G) v London Borough of Southwark* in May 2009 clarified the responsibilities of Children's social care towards homeless 16- and 17-year-olds and the interrelationship between duties under the Children Act 1989 ('the 1989 Act') and Part VII of the Housing Act 1996 (as amended by the Homeless Act 2002).

The judgement is case law authority for the position in law that the duty under Section 20 of the 1989 Act takes precedence over the duties in the Housing Act 1996 (as amended by the Homelessness Act 2002) in providing for children in need who require accommodation

4. Statutory Responsibilities

Legislation and statutory guidance are clear that:

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

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

The Children Act 2004 requires cooperation between relevant statutory services to improve outcomes for children and young people as part of developing an area's Children's Trust. This includes cooperation to safeguard children and young people.

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

Section 20(1) requires that:

- a. every Children services authority shall provide accommodation for any child in need within their area who appears to them to require accommodation because of:
- b. there being no person who has parental responsibility for them;
- c. their being lost or having been abandoned; or
- d. the person who has been caring for them is prevented (whether permanently, and for whatever reason) from providing them with suitable accommodation or care.

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

Every local authority shall provide accommodation 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 them with accommodation. –

In addition, section 20 (4), provides that:

a. A children's services authority may provide accommodation for any child within their area (even though a person who has parental responsibility for them is able to provide them with accommodation) if they consider that to do so would safeguard or promote the child's welfare. - If a young person in need requires accommodation because of one of the factors set out in section 20.

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

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

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

- Provision of 'accommodation' means that which is provided by Children's Social Care or the Housing Authority or a jointly commissioned supported accommodation offer.

The lead agency is Children's Social Care however housing services also have duties towards young people who are homeless or threatened with homelessness within 56 days. Duties owed by both services will depend on a range of factors requiring them to work together to plan and provide a service centred on young people and their families.

5. Homeless Prevention

CSC and the LHA's believe 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 LCC and the LHA's will be to identify whether a young person, who approaches for assistance because they are homeless or threatened with homelessness within 56 days, can safely return to their parental home.

N.B. If a young person is a Child in Care (CiC), then they will receive support direct from the Children in Care teams or the Leaving Care Service (see section 9).

6. Approaches

Information - Young people must be given realistic and full information about the support that they could receive at the start of to help them make a fully informed decision. This must include information on Section 20, Section 17, Leaving Care, and assistance under Part 7 of the 1996 Housing Act. Staff will be trained to understand the different legislation and how it affects young people. Social workers are to ensure that young people have been given guidance represented in the "Helping Young people with Housing problems aged 16/17".

Social worker to discuss with young person Appendix 1 of the leaflet. If they do not agree to be accommodated under Section 20, this will need to be signed and

uploaded to the young person's social care file. A copy of this to be sent to the LHA if required.

A young person can approach the district and borough council either in person, by phone or email and can also approach children's and social care. Wherever they first approach will start the process for assessing the housing status through the joint protocol.

On Day One

All approaches to a LHA by a 16/17 year old will be referred to Children's social care via <https://resources.leicestershire.gov.uk/education-and-children/child-protection-and-safeguarding/multi-agency-referral-form-for-early-help-and-social-care-services-marf>

On receipt of this referral, CSC will screen the referral and inform the housing authority they are aware of and of potential timescales. CSC will lead on the initial assessment process.

CSC will gather information from the young person to consider their presenting need including if the statutory threshold to accept a referral is met and establish if the young person is homeless or threatened with homelessness within 56 days. They will explore the following options with the young person:

Preventing homelessness

- Children's social care will contact the parent/carer to discuss the situation and explore the viability of the young person returning to the family home, ensuring that parents are aware that they have parental responsibility;
- A home visit by children's social care with the young person to explore any safeguarding concerns and establish fully the young person's circumstances
- A family network meeting would be considered to explore the available accommodation options. This would be led by CSC.
- Mediation with family members to resolve issues.
- Referral to "Talk2Sort" advocacy service

Relieving homelessness

- Looking into alternative accommodation with other family members or appropriate friends
- Other sources of accommodation if the above is not available or appropriate.

LHA's will assist CSC with any potential emergency accommodation options for CSC to consider. If emergency accommodation is accessed by CSC this will be under a section 20 duty. Emergency accommodation options could be:

- Young persons supported accommodation
- Contacting appropriate relatives/friends if there is a safeguarding risk for the young person to return home

LHA's will record any approach of a 16/17-year-old in their relevant housing systems for their Government returns (HCLIC). Any approach will be the start of a homeless application and the relevant homeless duty will be started.

If a 16/17-year-old approaches CSC a duty to refer will be made to the relevant housing authority. See Section 8

Days 2 – 5 (working days)

1. Following the initial approach and if the young person is not immediately homeless or has additional needs, CSC contact the referring Local Housing Authority and Young Person to make them aware the Children & Families assessment is undergoing, with the Social Worker explaining the services the young person may be entitled to receive from Children's Social Care.

2. CSC will continue to offer mediation between the young person and their family to try and return home to the family if appropriate.

3. By Day 5 CSC will have informed the housing authority of needs the young person presents and will arrange for a discussion with the LHA to examine any possible housing options. This will form the basis of a Personal Housing Plan which will be completed by the LHA. Communications between the two agencies will continue onto the next course of action if a duty is owed under the 1989 Act with Children's Social Care leading the planning.

4. CSC will ensure that all young people have been provided with the "Helping Young people with Housing Problems aged 16/17" guidance. CSC will offer support by Talk2Sort advocacy service to ensure the young person receives independent advice and can access advocacy and mediation if required.

In all cases where a young person is placed in accommodation, they should never be closed to support from CSC and should at the very least remain open for support to move on to new accommodation. Mediation between the young person and family should continue during any assessment process

In considering suitability, children's services should take into consideration that 16- and 17-year-olds who are homeless and estranged from their family will be vulnerable and in need of support, and therefore it would not usually be appropriate for them to be placed in temporary accommodation without on-site support. Bed and breakfast accommodation, including hotels and nightly let accommodation with shared facilities, is not considered suitable for any 16- or 17-year-olds. DLUHC/DfE statutory guidance, particularly section 6: Provision of accommodation for 16 and 17 year olds who may be homeless should be taken into account when considering accommodation.

The CSC Team should ensure that the referrer is kept up to date, informed and involved regarding the young person. The assessment should be concluded in 45 days but in cases of homelessness a response will be provided immediately.

By Day 14

. The LHA and CSC will have discussed available options in the area. The LHA will have completed a Personal Housing Plan led by CSC and the young person. This plan will be shared with the social worker and young person. This will include accommodation options post 18. The accommodation options will be communicated to CSC to inform their ongoing assessment. Options offered by LHA's will be limited to:

- Application to the housing register held in trust until the young person turns 18
- Any supported accommodation options available within the area of the LHA. These options will only be applied for by CSC if appropriate .

7. No Recourse to Public Funds

Where a young person is suspected not to have recourse to public funds please check guidance and seek support to verify their status should be sought - see [No Recourse to Public Funds - Citizens Advice](#) for further information.

8. Duty to refer

The Duty to Refer, Regulation 10 of The Homelessness (Review Procedure etc.) Regulations 2018 under the Homelessness Reduction Act 2017 (HRA) specifies:

- If a public authority considers that a service user may be homeless or threatened with becoming homeless within 56 days, or if a service user positively discloses this information, the local authority will be required to ask the customer if they would like to be referred to the LHA of their choice on the grounds that they are homeless or at risk.
- If the individual consented to a referral, the public authority will be required to make the referral, notifying the identified LHA of the reason for the referral and how the individual may be contacted.

The local housing authority would then follow the process outlined in section 6.

9. Open to Children & Families Service

If a young person aged 16 & 17, is identified as struggling with housing and is already open to the CSC, the lead for any support involved will be the current Children Services worker. They will be responsible for making every effort to support the young person to remain at home or return home.

The involved CS worker will follow the process in section 6.

Again, if a young person accesses alternative accommodation, then proactive and continued attempts must be made by every team to mediate with the young person and their family to rebuild the relationship in that family and to increase the potential for a young person returning home whilst we continue to support them with housing.

Initial contact with Youth and Justice Service

Y&JS workers who are assessing or supporting young people aged 16 or 17 years old that present as being homeless or at risk of homelessness on release or are pending release from a custodial sentence or a remand into custody or are at risk of either, will follow the steps laid out above in terms of exploring opportunities within the young persons network. Where this is not an option, contact will be made with Social care colleague through internally agreed processes.

Where a high level of accommodation needs and safeguarding concerns, or risk to others are identified, additional support will be considered to enable the young person to access to suitable accommodation that is safe and appropriate to their individual and assessed needs.

On occasion a young person aged 16 or 17 will appear before a Youth Court (Magistrates or Crown) and may be homeless or might be prevented from returning home by the Court as a condition of their Bail. In these circumstances, the same process will be followed as detailed in this section above.

Whenever a court refuses bail to a child /young person (aged 10-17), the court is required to remand the child to Local Authority accommodation unless certain conditions are met, in which case the court may instead remand the child to Youth Detention Accommodation. If the child or young person (whether remanded to Youth Detention Accommodation (YDA) or to Local Authority accommodation) will be treated as Looked After by their designated Local Authority. The decision to remand a young person will be made by a Court. This decision may be made at short, or no, notice for the Local Authority concerned. Where a court remands a young person to YDA the Court Officer/Manager must advise the court of the designated authority responsible for the young person or child. The child or young person will be Looked After by that designated Local Authority. Young people remanded to YDA become eligible for leaving care service beyond 13 weeks.

Where the 16- or 17-year-old was Looked After immediately before being remanded to YDA, a Detention Placement Plan must be prepared by a CSC social worker in conjunction with a Youth Justice worker based upon the assessment that has informed the current Care/Pathway Plan. A copy of the Care / Pathway Plan must also be given to the Governor, Director or Registered Manager of the YDA. The young person's CSC Independent Reviewing Officer (IRO) must be notified by the Court Officer/Manager. The IRO will be responsible for coordinating and chairing planning meetings which the allocated social worker, Y&J and young person carers(s) should attend. A central consideration of the meeting must ensure that planning for release into community into suitable and safe accommodation is progressed and achieved where practicable.

If the 16- or 17-year-old young person was not Looked After immediately before being remanded a Detention Placement Plan must be prepared by an allocated Y&J worker and a remand to YDA planning meeting must be held within 10 working days. This will require an assessment of 'sufficient quality' to ensure identification of the child's needs and how the YDA Establishment will respond to them on a day-day basis. A CSC IRO must be notified of the remand to YDA by the Y&JS court officer. The IRO will be responsible chairing subsequent planning meetings which the allocated social worker, Y&JS worker and young person's carer(s) should attend. A central focus of the meeting must ensure that planning for release into community into suitable and safe accommodation is progressed and achieved where practicable

If a young person aged 16 or 17 has been given a custodial sentence, their Y&JS worker through the assessment process conducted at the start of, and during the

custodial sentence, identify any need for accommodation on release. If the young person has an allocated social worker before the start of their custodial sentence, that social worker will work with the Y&JS worker and the relevant secure establishment staff throughout the sentence period, ensuring that the young person's needs on release for assistance under the 1989 Act are assessed when appropriate. If the young person was previously a Looked after Child (LAC), the social worker will take the lead in planning post-release accommodation from the start of the custodial sentence onwards, combining the sentence planning meeting process with LAC reviews whenever possible.

If the young person is not an open case to children's social care and it becomes apparent to the Y&JS worker that the young person will not have suitable accommodation on release, the YYJS worker will complete an internal process to CSC at least 56 days before the young person's release. The relevant information regarding risk management and safeguarding will be fully shared. CSC will then issue a duty to refer to the housing authority.

10. On-going Assessment and support

If a young person has accessed alternative accommodation, and is not a Child in Care, CSC has a Statutory Responsibility to proactively offer young people a Child and Family Assessment. Young people will be given information found in "Helping young people with housing problems aged 16 and 17" so that they understand their rights, entitlements, and the possible outcomes.

If a young person accesses alternative accommodation, then proactive and continued attempts must be made by CSC to mediate with the young person and their family to rebuild the relationship in that family and to increase the potential for a young person returning home whilst we continue to support them with housing.

Professionals working with these young people will gather as much information as possible in a Child and Family Assessment throughout the early stages of involvement. This will ensure that if a Social Care Assessment is needed, then there is a clear chronology and record of information and intervention to support future assessment.

Any decision about a young person's status is to be agreed through Support Panel.

11. Children's Social Care Outcome

During the assessment where a return home is not immediately viable, a Children's Social Care Manager will make an interim decision on day one as to whether a duty is owed under S20 and seek agreement from the Head of Service where this is required.

The outcome of the assessment will be communicated to the local housing authority. Should it be decided that no duties are owed by children's social care the local housing authority will need to conclude their homeless duties under the Housing Act 1996 as amended by The Homeless Reduction Act 2017. Please refer to Section 17.

The outcome of the assessment will be communicated to the young person. If the young person has decided to refuse accommodation under section 20, they will be made aware of their right to change their decision up until their 18th birthday (refer to the Helping Young people with Housing Problems aged 16/17 guidance).

There will be young people who state that they don't want to be 'looked after', in which case Children's Social Care will, taking the person's wishes into account determine whether the application of S.20 is appropriate. All discussions regarding this, need to be done jointly with the LHA. Young people who indicate that they do not want to become looked after should also be aware that they can request a re-assessment at a later stage until their 18th birthday if they revise their decision and decide that they would consider becoming a looked after child.

12. Children's Social Care process to determine if a young person becomes S20:

Every 16-17 year old assessed as being a child in need but who does not wish to be accommodated under section 20 should have a child in need plan setting out the services that will be provided to meet their needs. If the young person's wishes change, they can request a further reassessment until their 18th birthday.

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 need to work together with the young person to ensure that they are not placed at risk of homelessness as they approach age 18

Early Help can provide support if a young person decides they do not want a service under S17 or S20 subject to consent.

14. Escalation of decisions

Parties are entitled to seek advice where Children's Social Care do not make a S20/S17 decision against the wishes of the young person and where the Housing Authority believe the young person is S20/S17 this can be escalated by:

1. Young person being advised of their right to complain about the assessment process using NYAS (National Youth Advocacy Service) – 0808 8081001 <https://www.nyas.net/> - Child needs be CIN or can be challenging a CSC decision if not CIN to use this service.

15. Advocacy services for young people

Closure of S17 cases who are accommodated should be made in agreement with the young person and provider they are housed with. To support the transition and settling into supported accommodation is recommended that S17 cases are kept open for at least six weeks from move in date.

16. 16- and 17-year-olds from out of area

16- and 17-year-olds from one local authority area that seek assistance from a children's services in another local authority area should not be returned and CSC

must consider the young person's immediate needs. The duty to assess falls on the authority area where the young person is requesting assistance.

If during assessment it becomes clear that young people are ordinarily resident elsewhere, the decision may be made by Children's Social Care to return these young people to their home area if it is safe to do so. Enquiries should be made by Children's social care within the "home authority" for them to take over the assessment of their needs. Homeless young people should not be returned to another area where there is no confirmation that accommodation is available to them.

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

17. Homelessness Application

Children's Social Care will work with the housing authority for further assessment under the Homeless provisions of Part 7 Housing Act 1996, as amended, if appropriate on a case-by-case basis.

Where the S20 criteria is not met or declined by the young person and they do not want a service from the district/borough council but they require accommodation the housing authority will discharge their duties under homelessness prevention or relief. It is during the Children's and Family Assessment that the LHA will record any work undertaken by CSC or the LHA to prevent or relieve homelessness.

- Prevention duties apply to those that are eligible and threatened with homelessness within 56 days.
- Relief duties apply to those that are eligible and homeless immediately or within 56 days which requires the council to take reasonable steps to help the applicant to secure alternative accommodation. The applicant is entitled to an assessment of their needs which must be confirmed to them in writing along with a Personalised Housing Plan which sets out the actions that both the applicant and the Council will take to find accommodation. There is no duty on the Council to provide any sort of accommodation under the Relief Duty unless they are in Priority Need.

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

18. Out of Hours Access

Where young people present as homeless outside of office hours, the priority must be the safety and well-being of the young person, and where needed, accommodation will be provided until the next working day.

All out of hours enquiries made to district and borough councils should be referred to CSC's Emergency Duty Team.

19. Young Person's Wishes and Feelings

Both the LHA and CSC 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 decisive, consideration in the overall judgement of their jointly 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.

20. Escalation

Effective joint working relies on open and honest relationships between agencies, which includes professional challenge, problem solving and seeking resolution; this is an integral part of effective working. Team Managers from social care and the housing authority to discuss any cases where an agreement can not be reached. Consent from the young person would have been given during the assessment process. The Data Protection Act (1998) requires that young people should give their written consent before any information about them can be shared. Children's social care and the housing authority will review cases and findings will be reported to the Homeless Delivery Group for learnings and actions to be disseminated across the individual organisations. This will involve opportunities for joint work across the housing authorities and social care. It would be the responsibility of the leaving care district representative to ensure any actions are logged and completed. Contact details for key people are available in Appendix A

21. Review and Learning of practice Cases will be reviewed on an annual basis by appropriate personnel within the different organisations. This is to share positive experiences and to share learnings that have been identified over the course of the year. This will be presented to the Homeless Delivery Group and included in the annual report to the Chief Housing Officers Group (CHOG).

22. Monitoring and Review of the Protocol

Review this protocol on a biannual basis or when changes in legislation determine via the Homeless Delivery Group. The protocol should then be formally reviewed on an annual basis and report back to the Chief Housing officers Group (CHOG) what is working well and any issues to resolve.

Glossary

CSC – Children’s social care

Local Housing Authority – refers to the district or borough council within Leicestershire

Housing Options Officers – refers to any officer in a Leicestershire council area that administers the statutory duties under The Housing Act 1996 as amended by the Homeless Reduction Act 2017, Homelessness Act 2002.

Section 20 – Young people accommodated post child in need decision

Section 17 – Young person awaiting child in need decision pending assessment

PHP (Personal Housing Plan) – A plan required to all persons owed a prevention or relief duty under Homeless Reduction Act 2017. This is provided by the local housing authority and details what actions will be completed to achieve accommodation for the person.

Talk2Sort - a homelessness mediation service provided by The Bridge (East Midlands). It supports young people aged 11 to 19 and their families across

Appendix A

Contacts

Housing Authority	First point of escalation	Second point of escalation
Blaby DC	Vijay Jethwa Vijay.jethwa@blaby.gov.uk	Ian Jones ian.jones@blaby.gov.uk 0116 272 7516
Charnwood	Mitchell Powell – Housing Needs Manager Mitchell.powell@charnwood.gov.uk 01509 634567	Katie Moore – Head of Strategic Housing Katie.moore@charnwood.gov.uk 01509 634761
Harborough BC	Steve Nash – Housing Services Manager s.nash@harborough.gov.uk 07590 863 757	
Hinckley & Bosworth	Ashleigh Brightmore – Housing options team leader Ashleigh.brightmore@hinckley-bosworth.gov.uk 01455 255825	Jo Wykes – Housing Options Manager Jo.wykes@hinckley-bosworth.gov.uk 01455 255712
Melton BC	Rachel Chubb Strategic Lead Supporting Communities rchubb@melton.gov.uk 01664 502510	Aysha Rahman Assistant Director – Communities Arahman@melton.gov.uk
NWL		David Scruton – Housing Strategy and systems team manager David.scruton@nwleicestershire.gov.uk 01530 454612
Oadby and Wigston	Louise Taylor – Housing Options team leader Louise.taylor@oadby-wigston.gov.uk 0116 2888 961	
Helplines		
NHAS – Housing Advice 0300 330 0517 nhas.org.uk		
CSC -		