

Rotherham Metropolitan Borough Council
Protocol for Homeless 16 and 17 Year Olds



Inside Cover

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Rotherham Metropolitan Borough Council

Protocol for Homeless 16 and 17 Year Olds

Provision of Accommodation for 16 and 17 year old young people in Rotherham who may be homeless and/or require accommodation

For the purposes of this protocol the term 'homeless' should be taken to mean "homeless and/or requiring accommodation" The term "young people" should be taken to mean 16 and 17 year old children.

1. Introduction

- 1.1 In recent years a number of judgments have been handed down by the House of Lords in cases concerning the interrelationship 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 young people aged 16 or 17 who require accommodation. The most recent of these has been *R (G) v Southwark [2009] UKHL 26*, but these have also included *R (M) v Hammersmith and Fulham [2008] UKHL 14*. These judgments have restated and clarified the established legal position that the duty under Section 20 of the 1989 Act takes precedence over the duties in the 1996 Act in providing for children in need who require accommodation, and that the specific duty owed under Section 20 of the 1989 Act takes precedence over the general duty owed to children in need and their families under Section 17 of the 1989 Act.
- 1.2 This Joint Protocol is concerned with the functions of Children's Services (CYPS) and Housing Services (Key Choices) when young people seek help from, or are referred to, Rotherham MBC because of homelessness.
- 1.3 **Care Leavers:** Responsibility for assisting care leavers rests with Children and Young People's Services. All care leavers are allocated a young person's advisor within Children and Young People's Services who work with them to find suitable accommodation and offer support to them once they have found this.
- 1.4 **Young People under the Age of 16:** Homeless young people under the age of 16 are automatically the responsibility of Children and Young People's Services. Therefore, any young person under 16 years should be referred to them as a priority.

2. Supporting families to stay together and re-unification

- 2.1 It is in the best interests of most young people aged 16 or 17 to live in the family home, or, where this is not safe or appropriate, with responsible adults in their wider family and friends network. Rotherham MBC recognises this and in its response will work pro-actively with young people and their families to identify and resolve the issues which have led to the homelessness crisis. This could involve family support such as family mediation or family group conferences.
- 2.2 It may be possible for Children's Services to prevent a young person from having to leave home, or it may take much longer to work through significant family tensions and problems while the young person is accommodated by the Local Authority. Rotherham MBC will ensure that services are designed to enable this family focus to begin on day one and continue throughout the processes of assessment and, where necessary, the provision of accommodation. This is likely to involve support through Early Help provision.
- 2.3 This preventative work will be undertaken alongside the statutory assessment processes outlined in this protocol and will not delay assessment or the delivery of statutory services to 16 and 17 year olds who may be homeless or at risk of homelessness.
- 2.4 If key issues affecting the young person's welfare and/or the sustainability of their living at home remain unresolved, post-reunification support will be provided to the family after the young person returns home.

3. Accessing Services

- 3.1 16 and 17 year olds who seek assistance from Rotherham MBC because they are homeless or at risk of homelessness may either seek help initially from Housing Services (Key Choices) or from Children and Young Peoples Service (CYPS).
- 3.2 All 16 and 17 year olds who present outside normal working hours will be referred to CYPS Out of Hours Team.

4. Initial Approaches to Housing Services, Key Choices Property Shop

- 4.1 Where the initial approach or referral for housing assistance is made to Key Choices, it will be taken as an application for assistance under Part 7 of the 1996 Housing Act. Key Choices will, therefore, need to decide whether there is reason to believe the young person may be homeless or likely to become homeless within twenty-eight days (Section 184 of the 1996 Act) and, if so, the Authority will need to make inquiries to determine whether any duty is owed under Part 7 of the 1996 Act.
- 4.2 Key Choices will make immediate enquiries wherever possible with parents, guardians, family and friends of the young person to establish whether an immediate resolution or medium term delay of homelessness can be achieved. A home visit can be arranged in cases of threatened home exclusions and in some cases this engagement of services will be enough to alleviate the situation in the home.
- 4.3 If there is reason to believe the young person may be eligible for assistance, may be homeless and may be 16 or 17 years of age, the Authority will have an immediate duty to secure interim accommodation (Section 188 (1) of the 1996 Act) pending a decision whether any substantive duty is owed under Part 7 and under Section 20 of the 1989 Children Act ("the 1989 Act"). Such accommodation must be suitable for a 16 and 17 year old and, in considering suitability, Authorities should bear in mind that 16 and 17 year olds who are homeless and estranged from their family will be particularly vulnerable and in need of support. Rotherham MBC believes that Bed and Breakfast accommodation is unsuitable for 16 and 17 year olds and will be avoided. Key Choices will ensure all relevant referrals to supported living schemes are made before completing the Joint Assessment.
- 4.4 If the young person may be homeless or may be likely to become homeless within twenty-eight days, Key Choices will make an immediate referral to CYPS for an assessment under the Children Act, 1989. This referral should be made via telephone call to MASH (Multi Agency Safeguarding Hub) in the first instance and followed up with a MARF (Multi Agency Referral Form). **This applies to all 16 and 17 year old applicants without exception, for example, including those who are pregnant and/or a parent.**
- 4.5 The question whether any substantive duty is owed under Part 7 of the 1996 Act will depend, in part, on the outcome of the joint assessment , and whether any duty is owed under Section 20 of the 1989 Act. Key Choices should continue to secure accommodation under Section 188 (1) until they have notified the young person whether any substantive duty is owed under Part 7 of the 1996 Act.
- 4.6 MASH, after receiving the referral from Key Choices, screen the information, and pass the case to the duty team. It is the duty team who undertake the joint assessment with Key Choices. The timescale for the assessment is originally set at 10 days and depending on complexity of the case, the timescale may be adjusted to reflect the complexity. The assessment will consider the child remaining within

the family home; additional support; any immediate safeguarding issues; support within the extended family.

- 4.7 Once the joint assessment has been completed and should the outcome be that CYPS agree that they have a duty under Section 20 duty to provide accommodation and the 16 or 17 year old has accepted the accommodation, the young person will not be homeless and no further duty will be owed under Part 7 of the 1996 Act.

5. Initial approaches to Children and Young People Services

- 5.1 Where a 16 or 17 year old seeks help from CYPS or is referred by some other person or Agency (including by joint assessment from Housing Services) as appearing to be homeless or at risk of homelessness, or they are an unaccompanied Asylum Seeker without a parent or guardian with responsibility for their care, then Children's Services must assess whether the young person is a child in need, and determine whether any duty is owed under Section 20 of the 1989 Act to provide the young person with accommodation.
- 5.2 Where a 16 or 17 year old seeks help or is referred, and it appears he or she has nowhere safe to stay that night, then CYPS must secure suitable emergency accommodation for them.
- 5.3 This will mean that the young person will become looked after (under Section 20 (1)) whilst their needs, including their need for continuing accommodation and support, are further assessed. Bed and Breakfast accommodation is not considered suitable for 16 and 17 year olds even on an emergency accommodation basis. Where the young person is accommodated under Section 20, they will not be eligible for welfare benefits, including housing benefit¹ and Children's Services will have a duty to maintain them (including meeting the cost of accommodation).
- 5.4 Referrals to all relevant young person supported accommodation will be done and arranged the same day. If not available to accommodate that day, then the joint assessment referral to Key Choices will be made to request accommodation.
- 5.5 Key Choices will accept and acknowledge the referral the same day and confirm authorisation via Manager to proceed with a placement.
- 5.6 Section 17 of the 1989 Act sets out the responsibilities of Local Authorities to provide services for children in need and their families. It is the general duty of every Local Authority to:
- (a) 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.
- 5.7 Section 17(10) of the 1989 Act defines a child as being in need if;
- (a) He is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a Local Authority under this Part.

¹ There are exceptions for lone parents and for disabled young people who may have established entitlement to non-means tested benefits.

- (b) His health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or
- (c) He is disabled.

The duties described in Section 17 apply to all children in need in the area of the Local Authority.

A child is any person under the age of 18. (see Section 105 (1) of the 1989, Act.)

5.8 Section 20 (1) requires that:

Every Local Authority shall provide accommodation for any child in need within their area who appears to them to require accommodation as a result of;

- (a) There being no person who has parental responsibility for him.
- (b) His being lost or having been abandoned; or
- (c) The person who has been caring for him being prevented (whether or not permanently, and for whatever reason) from providing him with suitable accommodation or care.

5.9 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 him with accommodation.

5.10 In addition, Section 20 (4), provides that:

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

5.11 Rotherham MBC recognises that the duty is engaged whenever it has determined that the young person is in fact in need and requires accommodation as a result of one of the factors set out in Section 20 (1) (a) to (c) or in Section 20 (3).

5.12 Where a young person requires accommodation as a result of one of the factors set out in Section 20 (1) (a) to (c) or Section 20 (3) then that young person will be in need and must be provided with accommodation. As a result of being accommodated the young person will become **looked after** and Rotherham MBC will owe them the duties that are owed to all looked after children, set out in Sections 22 and 23 and once they cease to be looked after, the duties that are owed to care leavers under that Act.

Determining who is in need and the extent of any needs requires professional judgment by CYPS staff, informed by consultation with other professionals familiar with the circumstances of the individual young person and their family and will be assessed fully in accordance with the assessment process set out in the Framework for the Assessment of Children in Need and their Families. The young person's and their family's wishes and feelings must be taken into account (see paragraphs 10.1 – 10.10).

- 5.13 The most crucial issue to be determined through the assessment process, once the child's immediate safety is determined, will be whether the young person is actually homeless and, therefore, requires accommodation. The assessment will need to take into account every dimension of the young person's needs and, as well as the need for accommodation, it will be necessary to assess what further support the young person needs. A homeless young person not participating in education or training would, in the first place, need suitable accommodation but this should be arranged in conjunction with plans to re-engage them with education or training.
- 5.14 The majority of young people seeking help because of homelessness cite the breakdown of relationships with parents or other carers as the reason for their homelessness. 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 safe option.

6. Initial Approaches to Rotherham MBC from Young People from another district

- 6.1 Where a young person seeks assistance from the Housing Services. Key Choices will take all applications for assistance including cases where the applicant may not (or does not) have a local connection with the district. Key Choices will refer an applicant to another Authority when it is accepted that the applicant is eligible for assistance, unintentionally homeless and in priority need but considers that the applicant does not have a local connection with Rotherham and does have one elsew_ here in Great Britain. For further guidance about local connection and referrals, authorities should refer to Chapter 18 of the *Homelessness Code of Guidance for Local Authorities*.²
- 6.2 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 Rotherham CYPS the duty to assess falls on the Authority from which they seek assistance. Rotherham CYPS 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. That said, appropriate checks need to be undertaken with the other local authority to ensure that this is not an open case to them. Should the child be an open case, they retain responsibility for the child.
- 6.3 An initial interview, perhaps 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. These enquiries may be able to establish whether it may be possible for the young person to return to the area where they may be presumed to have a stronger local connection. 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.
- 6.4 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 from pillar to post while the Authorities determine where he or she comes from.

² <http://www.communities.gov.uk/publications/housing/homelessnesscode>

7. 16 and 17 year olds who may require accommodation with children and/or partners

- 7.1 By the age of 16 or 17 most young people are forming relationships and a few may themselves have children. Assessment, Support and Accommodation Services should take into account young people's relationships as well as any dependent children and, where appropriate, support them to build a positive family life.
- 7.2 The needs of 16 and 17 year olds for accommodation will be assessed in the context of their relationship with any "partner" where appropriate.
- 7.3 Where young parents are provided with accommodation by CYPS and become looked after, it does not follow that their child will also be looked after. Rotherham MBC will take this as an issue for an entirely separate assessment based on the needs of the infant.

8. Undertaking Assessments

- 8.1 An immediate assessment should be carried out involving interviewing the young person and family members and making enquiries with other Agencies including Housing Services. Where a young person seeks help because of homelessness, a joint Assessment of the young person's needs to be conducted by both CYPS and Key Choices (led by the approached service). Joint Assessments and referral processes will be underpinned by appropriate information-sharing so that young people do not have to repeat their stories between services and to ensure young people do not have to navigate between Departments themselves.
- 8.2 **The lead Agency will be Children's Services, given their responsibilities for children in need in their areas. However, responsibility for assessing the young person at first will be the service approached first.**
- 8.3 It will be essential to establish very close contact and rapport with the young person throughout the assessment process, in order to make sure their wishes and feelings are properly understood and to take their views into account (see paragraphs 10.1 – 10.10). Similarly, it will also be important to maintain contact with the adults who retain parental responsibility for the young person and with any other family members in the young person's network. It will generally be necessary to visit the family home or other accommodation where the young person has been living as part of the assessment process.
- 8.4 The assessment will need to establish whether the factors set out in Sections 20 (1), 20 (3) or 20 (4) of the 1989 Act are applicable to the young person's circumstances.
- 8.5 Careful account will need to be taken of the factors which will promote the welfare of the young person, including the significance of the young person's relationship with their parents, or other adults in their life responsible for their care up until the point that they seek help, or are referred, as homeless. The assessment should identify the young person and their family's strengths as well as any difficulties and should build on strengths to attempt to develop sustainable solutions so that the young person's needs, including the need for suitable accommodation, are met for the future.
- 8.6 At the conclusion of the Assessment, staff should reach a provisional assessment of the young person's needs and the services that they are likely to require to support them in making a positive transition into adulthood. The *Framework for the Assessment of Children in Need and their Families* (2000)³ provides comprehensive information about the factors that the assessment must take into account.
- 8.7 Where a young person seeks help because of homelessness, the assessment must necessarily reach a decision as to whether or not the

³ <http://www.archive.official-documents.co.uk/document/doh/facn/fw-00.htm>

young person is a child in need and requires accommodation as a result of one of the scenarios set out in Section 20 (1)(a) to (c) or Section 20 (3).

Temporary accommodation provided under Homelessness Act, 1996 under the interim duties is not accommodation for the purposes of these enquiries as it is by its nature an intermediate phase pending assessment of the young person's needs.

- 8.8 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 CYPS conclude that the young person does not require accommodation for this reason, they should consider whether they should provide services under Section 17 of the 1989 Act, which could include financial support under Section 17(6)) to sustain any plan for the young person to live with members of their family. CYPS will also need to put in place a strategy to try to avoid the young person being threatened with homelessness in the future. Where the young person is a child in need, CYPS should use their powers under Section 17 of the 1989 Act to provide these services.
- 8.9 However, if the young person requires accommodation, then this must be provided by CYPS and the young person concerned will become or continue to be (if CYPS has provided or secured emergency accommodation) looked after under Section 20 of the 1989 Act, with the Authority having the responsibilities towards them set out in Sections 22 and 23 and once they cease to be looked after, the duties that are owed to care leavers under that Act.⁴ The child becomes looked after at the point that the Local Authority determines the young person needs accommodation (including emergency accommodation) under Section 20.

⁴ A looked after child who is aged 16 or 17 and has been looked after for a total of at least 13 weeks (which began after they reached the age of 14 and ends after they reach the age of 16) is an "eligible child", and will be entitled to care leaving support under the 1989 Act. A 16 or 17 year old who was an eligible child but has ceased to be looked after, is a "relevant child", and will also be entitled to support as a care leaver

9. Timescales

- 9.1 *The Framework for Assessment of Children in Need and their Families* sets out the timescales that should, except in exceptional circumstances involving difficulty in obtaining relevant information or children with very complex needs, be followed when assessing whether or not a child is in need and whether, as a result, services should be provided.
- 9.2 Within **one working day** a decision must be taken about whether to carry out an Assessment. Where a young person refers themselves, or is referred by another Agency as appearing to be homeless, CYPS should proceed with an assessment unless they are able to determine very quickly that the young person is not homeless and does not require support.
- 9.3 A decision to gather more information constitutes an Assessment. This should be completed within **ten working days, unless the complexity of the situation suggests that a longer period of time is needed.**
- 9.4 Where the Housing Solutions Team have been providing interim accommodation pending assessment of the young person, once the Assessment by Children Services is complete and it has been determined whether the young person will be accommodated by Children's Services under Section 20, Children's Services should notify Housing Services immediately. Where accommodation is to be provided under Section 20 the temporary accommodation charging arrangements will come into effect. The accommodation is to be assessed in the longer term as suitable for the young person; continual pursuance of more targeted support at supported housing schemes will be done.
- 9.5 An assessment is not complete until CYPS have decided what action is necessary to respond to the young person's needs and this has been communicated to the young person, the adults responsible for their care, the Key Choices and any other relevant Agencies.

10. Young Person's Wishes and Feelings

10.1 Section 20 (6) of the Children Act requires that:

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/her age and understanding) to such wishes and feelings of the child as they have been able to ascertain.

10.2 This will include assessing their emotional and behavioral development and their capacity to make use of wider resources to manage independent living.

10.3 However, where a young person says they do not wish to be accommodated, CYPS will reach the conclusion that the young person's wishes are decisive only as part of an overall judgment of their assessed welfare needs and the type and location of accommodation that will meet those needs.

10.4 The approach to assessment must be child-centred. CYPS staff responsible for the assessment will communicate the assessment plan to the young person so that he or she is provided with information about the enquiries that need to be made and the timescales involved. A key aspect of the assessment will involve reaching an understanding about how the young person views their needs.

10.5 It will be essential that the young person is fully consulted about and understands the implications of being accommodated by CYPS and becoming looked after. CYPS staff conducting the assessment will provide realistic and full information about the support that the young person can expect as a looked after child and, subsequently, as a care leaver. CYPS will also ensure that the young person receives accurate information about what assistance may be available to them, including from Housing Services under Part 7 of the 1996 Act, if they do not become looked after, and how any entitlement for assistance under Part 7 will be determined. In particular, the possible risk of becoming homeless intentionally in future, and the implications of this for further assistance with accommodation, should be made clear to the young person. This information should be provided in a 'child friendly' format at the start of the assessment process and be available for the young person to take away for full consideration and to help them seek advice.

10.6 Where there is any doubt about a young person's capacity to judge what may be in his or her best interests, e.g. whether they should become looked after or seek alternative assistance, there will need to be further discussion involving Children's Services, Housing Services, the young person concerned and their family, to reach agreement on the way forward.

- 10.7 Young people should have access to independent advocacy and support to assist them in weighing up the advantages and disadvantages and coming to a balanced decision.⁵
- 10.8 Some 16 and 17 year olds may decide that they do not wish to be provided with accommodation by CYPS, for example, because they do not wish to be supported as a looked after child. However, in these circumstances, CYPS will make it clear that the young person's decision is properly informed, and has been reached after careful consideration of all the relevant information.
- 10.9 The fact that a young person may be reluctant to engage with the assessment process outlined above is not in itself a basis for assuming that the young person has rejected any of CYPS' intervention to provide them with accommodation. Despite any lack of co-operation Rotherham CYPS will attempt to carry out its duties under the 1989 Act. In these circumstances, the assessment will involve careful recording of how CYPS has attempted to engage with the young person to assess their needs in order to determine and provide appropriate services. Ultimately, however, it is not possible to force services on young people who persistently continue to refuse them.
- 10.10 **Where a 16 or 17 year old child in need wishes to refuse accommodation offered under Section 20 of the 1989 Act, Children's Services must be satisfied that the young person :**
- **has been provided with all relevant information, and**
 - **is competent to make such a decision.**

⁵ Children and young people who have received services under the 1989 Act are able to be supported to make complaints and representation with the help of an independent advocate. Children's services should provide information about access to advocacy services when they explain the assessment process to 16 and 17 year olds seeking help because of homelessness.

11. Provision of Accommodation under Section 17 of the 1989 Act

11.1 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, 23 and 24 of the 1989 Act. However, CYPS recognises that the provision of accommodation under Section 17 will almost always concern children needing to be accommodated with their families.

11.2 **The powers of Local Authorities to provide accommodation under Section 17 cannot be used to substitute for their duty to provide accommodation under Section 20 (1) of the 1989 Act to homeless 16 and 17 year olds who are assessed as being children in need following the process described above. CYPS does 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 no discretion.⁶**

6 R (G) v Southwark [2009] UKHL 26 – para. 31
<http://www.publications.parliament.uk/pa/ld200809/ldjudgmt/jd090520/appg-2.htm>

12. **Provision of suitable supported accommodation under Section 20 of the 1989 Act by Children's Services**
- 12.1 CYPs will only provide children with supported accommodation which is suitable and of high quality. A range of different types of accommodation may provide suitable accommodation for 16 and 17 year olds who cannot live with their families, carers or guardians. These include foster care, children's homes, supported lodgings, foyers, properties with visiting support tailored to the young person's needs and other types of supported accommodation. In order for services to work well it is important that Children's Services work closely with Housing Services to ensure that a range of suitable supported accommodation placements are available for young people in their area, whether or not they are looked after children. Bed and Breakfast accommodation is not suitable for 16 and 17 year olds. For teenage parents it is particularly important that they are provided with accommodation which gives them the holistic support they require to meet their individual needs and improve their outcomes. This should include support around parenting and independent living skills; their health and well-being; access to education and training; and their readiness for future independent living.
- 12.2 The choice of placement for any individual young person will be informed by the assessment of their needs.
- 12.3 Section 23 (2) of the 1989 Act sets out the range of placement options in which a young person who is looked after by the Local Authority may be accommodated. These will include placements in foster care or in children's homes.
- 12.4 Some 16 and 17 year olds who require accommodation may be reluctant to take up these kinds of accommodation options and the assessment of their emotional and behavioural development will indicate that they do not require the level or kind of supervision and support that foster or children's home care provides.
- 12.5 Section 23 (2)(f)(i) of the 1989 Act permits Local Authorities to make *such other arrangements* as seem appropriate when they place a looked after child. This provision offers scope for Children's Services to ensure that they are able to make appropriate provision with support tailored to the needs of the young person for those homeless 16 and 17 year olds who they accommodate, and are looked after, but for whom fostering or a children's home placement would not be the most suitable option.
- 12.6 From the point at which Children's Services accommodate a 16 or 17 year old child, they should look forward to the support that the young person will need to make a positive transition to greater independence. This might include, for example, the provision of supported accommodation where young people can remain beyond the age of 18 and develop the skills they will need to manage the transition to adulthood.

- 12.7 The primary issue to be addressed in making each and every placement in “other arrangements”, just as in any other placement setting, will be: how will making this placement meet the assessed needs of the individual young person?
- 12.8 Where a young person is placed in *other arrangements* then the Local Authority must prepare a placement plan which is agreed between the young person and the person responsible for supporting the young person in the accommodation. This should be the person who will have the most day to day contact with the young person, for example, their ‘Key Worker’ or supported lodgings host/carer. 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.
- 12.9 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.

12.10 The plan must set out:

- the respective safeguarding responsibilities of the provider and Local Authority;
- the frequency of visits the young person can expect from their responsible Authority;
- communication arrangements between the provider and the Local Authority;
- the provider’s responsibilities for notifying the young person’s Social Worker and accountable staff of the Authority of any significant change in the young person’s circumstances;
- arrangements for giving notice of intention to terminate the placement (along with the Authority’s responsibilities for convening a review of the young person’s Care Plan where there is a risk of the placement being terminated).

13. Provision of accommodation for 16 and 17 year olds to whom a Section 20 duty is not owed or who refuse Section 20 accommodation

- 13.1 If CYPS decide that they do not have a duty to provide accommodation for a homeless 16 or 17 year old or the young person has refused provision of accommodation, CYPS must consider what other support and services should be provided for the young person to meet their needs in conjunction with Key Choices.

14. **Securing accommodation under Part 7 of the 1996 Act Housing Services Duties**

- 14.1 Under Part 7 of the 1996 Act, and the Homelessness (Priority Need for Accommodation) (England) Order 2002⁷, applicants aged 16 or 17 have a priority need for accommodation if they are not owed a duty under Section 20 of the 1989 Act. Where such applicants are also eligible for assistance and unintentionally homeless, the Authority will owe them a duty under Section 193 (2) of the 1996 Act to secure that accommodation is available for their occupation. Authorities should refer to the Homelessness Code of Guidance for Local Authorities for general guidance on discharging their homelessness functions under Part 7 of the 1996 Act.
- 14.2 Where CYPS have decided that a Section 20 duty is not owed for one of the reasons above, Key Choices will continue Section 184 Inquiries (following on from the Initial Joint Assessment referral) in order to consider whether any duty is owed under Part 7 of the 1996 Act (Section 184).
- 14.3 Where an application for housing assistance is already under consideration (for example, because the young person's initial approach for help was made to Key Choices and the young person had been referred to CYPS for an assessment of need), the notification by CYPS that a Section 20 duty is not owed will enable Housing Services to complete their inquiries under Section 184 of the 1996 Act and decide whether any duty is owed under Part 7.
- 14.4 In all cases where the Housing Services provide accommodation for a child in need, CYPS will need to consider the provision of services under Section 17 of the 1989 Act to meet the young person's other needs.
- 14.5 In considering whether a duty under Part 7 is owed to a 16 or 17 year old who has refused Section 20 accommodation, it is for Key Choices to satisfy itself in each individual case whether the applicant is homeless or threatened with homelessness. There are no general policies which seek to pre-define circumstances that do or do not amount to intentional homelessness or threat of homelessness.
- 14.6 Where a 16 or 17 year old is secured accommodation under Part 7 of the 1996 Act, CYPS should work closely with Key Choices to ensure that the young person is provided with sufficient support to ensure he or she does not become homeless intentionally in the future, for example, as a result of accruing rent arrears or being evicted due to bad behaviour.
- 14.7 Where CYPS hold open the offer of accommodation on a temporary basis to ensure that a 16 or 17 year old has accommodation available to meet his or her immediate needs, Key Choices will not necessarily consider that the young person is not homeless. Key Choices will

⁷ <http://www.opsi.gov.uk/SI/si2002/20022051.htm>

consider whether, in the circumstances, it would be reasonable for the applicant to continue to occupy the accommodation indefinitely, if they did not intervene and secure alternative accommodation.

- 14.8 In order to help facilitate the provision of accommodation by Key Choices to meet the young person's accommodation needs in the longer term, CYPS will inform Key Choices immediately of any decision that their provision of temporary accommodation will come to an end. CYPS and Key Choices will work together closely to ensure that the young person's ongoing housing needs can be met in the most practical and timely way possible.
- 14.9 Key Choices will not find applicants homeless intentionally because of failing to take up an offer of accommodation; homelessness is only capable of being "intentional" where the applicant has ceased to occupy accommodation that it would have been reasonable for him or her to continue to occupy.
- 14.10 Case law has established that in some circumstances a person does not do, or fail to do, something "deliberately" for the purpose of Part 7 of the 1996 Act if he makes a considered choice between two courses of action or inaction, either of which he or she is able to take. Thus, the Secretary of State considers that where a 16 or 17 year old is required to leave accommodation as a result of his or her decision to refuse Section 20 accommodation (for example, where CYPS bring to an end interim accommodation provided pending assessment of the young person's needs), that decision should not be treated as deliberate action or inaction that contributed to intentional homelessness, subject to it being an informed and considered decision.
- 14.11 If, for whatever reason, a 16 or 17 year old is found to have become homeless intentionally, Key Choices will immediately inform CYPS. For further guidance about intentional homelessness, Authorities should refer to Chapter 11 of the *Homelessness Code of Guidance for Local Authorities*.⁸

⁸ <http://www.communities.gov.uk/publications/housing/homelessnesscode>

15. Joint working to tackle youth homelessness

- 15.1 There is a clear legal framework for co-operation between CYPS and Key Choices 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 as part of developing an area's Children's Trust's arrangements.⁹
- 15.2 The Homeless Young People Panel will be focussed on the young people concerned by the services involved in order to ensure that the needs are met and service delivery. All current cases will be discussed with update on progress of assessments, likely outcomes, additional information, risk awareness, etc. All cases resolved between Panel meetings will be reviewed and removed from the Housing Panel list of cases.
- 15.3 The effectiveness and continuing relevance of joint protocols should be reviewed at least annually. The Young Person Housing Panel will provide regular opportunity to address operational issues. The Housing Panel will be responsible for monitoring the progress and outcomes of all cases involving young people approaching Rotherham MBC as homeless.
- 15.4 Monitoring arrangements will contribute to wider monitoring of the overall effectiveness of the children's trust in safeguarding children and young people and promoting their welfare.
- 15.5 Young people who have been provided with services to be consulted about the quality of services from appropriately designed customer satisfaction surveys and contribute to service reviews.

⁹ See *Statutory guidance on co-operation arrangements, including the Children's Trust Board and the Children and Young People's Plan (March 2010)* (<http://www.dcsf.gov.uk/everychildmatters/about/aims/childrenstrusts/childrenstrusts/>)

Rotherham Metropolitan Borough Council Protocol for Homeless 16 and 17 Year Olds



Appendix A

Home Services/CYPS Charging Agreement

This agreement is between Home Services and Children and Young Peoples Services (CYPS)

1. This Agreement commences on 13th April, 2010, and shall be reviewed every six months.
2. The Departments have reached agreement that Key Choices Homes Services Department shall provide emergency accommodation as an alternative option to the temporary housing of 16 and 17 year olds in hotel and bed and breakfast accommodation, and that CYPS will pay for the provision.
3. **Responsibilities of CYPS will be:**
 - 3.1 That when a child is placed in Key Choices emergency accommodation and are found to be "in need" following an Initial Assessment, CYPS will pay for the cost of the young persons stay (from the date of placement) within the emergency accommodation, this is currently £30.00 per child per night.
 - 3.2 To carry out an Assessment of the child within seven days of a referral from Key Choices or following a direct referral from the child to CYPS. If the child is found to be in need as set out in Section 17 of the 1989 Children's Act the nightly charge will be backdated to the day the child was placed in Home Services emergency accommodation and every subsequent night following the decision until they leave.
 - 3.3 That any additional costs incurred for extra cleaning, clearing the property from debris and belongings that the child may have left, damage to the property, damage to furniture and decoration will be paid for by CYPS.
 - 3.4 Will liaise with Home Services as to when the child is due to vacate the property
 - 3.5 Will transfer the charges accrued on the monthly charging to Home Services within five working days.
4. **Responsibilities of Home Services will be:**
 - 4.1 To make sure the property is clean and safe to use as set out with the emergency accommodation standards.
 - 4.2 That anyone place between the hours of 4.30 p.m. – 8.30 a.m. and over the weekend will be visited by a member of the Emergency Accommodation Team the next working day.
 - 4.3 All 16/17 year olds who are placed within Home Services emergency accommodation will undertake a "sign up" procedure this will explain their rights and responsibilities as an occupant and outline the consequences of failure to comply with their responsibilities as the occupant.

- 4.4 To contact CYPS if it is felt that the child is unable to maintain or occupy the accommodation due to their behaviour, therefore, found unsuitable Home Services will follow homeless legislation (S188) to end the duty to accommodate.
- 4.5 Any repairs that are reported to Home Services by the occupant will be completed within their category timescale.
- 4.6 To send a monthly charging schedule to CYPS for the costs of the emergency accommodation nightly and other charges that the have been incurred due to damage to furniture/decoration or property caused buy the child.

Signed: on behalf of CYPS

Print:


Date:

Signed:

Print:

Date:

Appendix B

		<p>16/17 year old Homeless Young Person - Referral to CYPS for Initial Assessment</p> <p>RMBC Protocol</p>	
Referring Officer			
Referring Agency		Housing Solutions Team 01709 336569	
Date of Referral			
Name of Young Person			
Date of Birth		Age	
Current Address		Street Area/Town Post Code	
National Insurance Number			
Home Telephone			
Mobile Number			
Email Address			
Is the applicant a child?			
This young person is believed to be a child in Need because:			
	Y/N	Brief Details	
Needs somewhere to live			
Is homeless today			
No money for food			
Mental health issues			
Physical health issues			
Learning disability			
Fleeing physical abuse			
Fleeing mental abuse			
Other			
Other			
Other			
Other			
Further Details			
Is within the Local Authority Area			

A child that appears to be in need of accommodation because?		
<hr/>		
Parent/guardian contacted?	<input type="checkbox"/>	
<hr/>		
Friends/Relatives contacted?	<input type="checkbox"/>	
<hr/>		
The Referring Agency Has Made the Following Contact		
The following referrals have been made		
Homeless Application	<input type="checkbox"/>	Date
Application reference		
Intentionally homeless?	<input type="checkbox"/>	
Emergency TA arranged	<input type="checkbox"/>	
CIN Assessment 10 Working Days Deadline	<input type="checkbox"/>	
<p style="text-align: center;">Email referral for to: ChildrensSocialCareAccessTeam@Rotherham.gov.uk This will be referred to the HYP Panel for monitoring</p>		