



**Suffolk Safeguarding  
Children Board**

# **Joint Protocol to Address the Needs of Homeless 16-17-year-old Young People in Suffolk**

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*Please note: This Protocol is being reviewed by Suffolk CYPS and partner Borough and District Councils (January 2019).*

## Policy Version History

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Version	Date of LSCB Endorsement	Date of Review	Document Author
V1	May 2016	May 2019	Julia Vernon

Practitioners should in all cases when dealing with 16/17 homelessness consider the [DFE Guidance](#)

# 1. Executive Summary

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The agreement to develop this joint protocol was made at a meeting of the Suffolk Corporate Parenting Board in conjunction with Suffolk Strategic Housing Partnership; a partnership that includes Suffolk's seven District and Borough Housing Authorities and Suffolk County Council Children and Young People's Services. This process began at a partnership meeting and has continued as a partnership approach leading to the further development of our joint protocol which all partners have been involved in.

The core team which has driven the work included representatives from:

- Children and Young People's Services Early Help Team
- Multi-Agency Safeguarding Hub
- West Suffolk Councils - Forest Heath District and St Edmundsbury Borough
- East Suffolk Councils - Waveney and Suffolk Coastal District
- Mid Suffolk and Babergh District Councils
- Ipswich Borough Council

Our starting point is that young people are better off living at home or within their family network, as long as it is safe for them to do so. Homelessness at a young age should be avoided wherever possible. This protocol concerns those young people where homelessness appears not to be immediately preventable and what respective agencies will do to assess needs and support young people. We recognise that there is prevention work which should be undertaken alongside statutory duties, and that prevention work can continue even once a young person has left the family/parental home, as over time it may still be possible to resolve conflict and/or reunite young people with their families, where it is safe to do so. We give thanks to Cumbria Council for sharing their protocol document. Suffolk's new document has been modelled on Cumbria's as we have experienced many of the same historical problems and have similar geographical areas.

*Young people in Suffolk who are vulnerable and homeless have received an inconsistent service, the process is often unclear and the outcome unsatisfactory for them. However, that service is equally unsatisfactory for many of the professionals involved - there are gaps in provision, there are unclear working relationships and there is often a feeling that we can do better within the resources we have available.*

The learning through a thematic audit undertaken by the Local Safeguarding Children Board Professional Advisor, highlighted the discrepancies across the county in the quality of relationships at local levels, the lack of trust between organisations and the lack of understanding of the legal framework.

By working together in partnership to develop this protocol, we have built ownership of the process in each of the partner organisations, we have begun to have challenging conversations which are constructive not destructive of relationships and have adopted an inclusive and collaborative approach. We will consciously seek and listen to the feedback from young people and will build a process that addresses the issues they raise. On a regular basis, through the Young Person's Housing Action Group (YPHAG), we will check with young people who are currently experiencing homelessness on the extent to

which we are delivering on the issues that matter to them and, where possible, amend our processes accordingly.

In the past, agencies have often been caught up in deciding which body has the statutory lead for assessment and for providing a service. This is a common problem across the country, which has resulted over the years in a number of circulars and clarifications from government and, indeed, major case law. Working in this way has been generally unsatisfactory, such that Suffolk statutory agencies have tried to pin down accountability within several successive Protocols that have had mixed success.

In this latest Protocol, we have taken a different tack. There have been several key aspects to our approach which have been different to what has gone before:

- We will concentrate on promoting a collaborative prevention and solution culture within agencies to a young person's homelessness;
- We will concentrate on the pathway that the young person takes from homelessness to success;
- We will base our proposals on the feedback from young people who have been homeless;
- We will involve young people, front line staff, managers and senior politicians in the process that we have gone through to produce this Protocol.

By adopting a collective approach and partners investing the time and effort required we believe this will result in a better, more consistent way of working that delivers improved outcomes for young people, including resolving difficulties at home and the prevention of homelessness in the first place.

## **2. Key Principles**

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Fundamental to the success of the partnered provision is the safety and protection of young people, their community and our staff. Thus the need for clear, timely and constructive communication with, on behalf of, and about young people, coupled with pragmatic, consistent and solution oriented action(s) form the underlying and overarching principles of our collective partnership.

We share a number of principles about young people regarding their transition to independent adulthood:

- i) The parents of, or those with parental responsibility for, 16 and 17-year-old young people are responsible for their children's welfare. Our key commitment is to keep families together in their homes wherever possible because this is best for the young person.
- ii) The experience of homelessness is damaging to young people and to their life chances. 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.

- iii) It is the responsibility of all agencies to keep children and young people safe, using a pragmatic 'safety first' approach, when making decisions regarding homelessness.
- iv) There is excellent preventative work available at a local level, which supports the principle that, for most young people, staying in their family home (with support) is usually the best outcome for them.
- v) Young people should be given every opportunity to have a realistic understanding of the options available to them, and to make informed choices about their future.
- vi) Bed and breakfast accommodation is not suitable for use by Children's Services or Housing Authorities to accommodate 16 and 17-year-old young people on a temporary basis.
- vii) Sometimes, despite the collective best endeavours of all agencies, the pathway agreed with a young person may breakdown. There is an absolute commitment on behalf of all agencies to ensure that in such cases the pathway is rebuilt, the young person can return to their home wherever and whenever possible and be supported to re-engage and build their resilience.

### 3. Joint Working: The Detail

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We agree it is the responsibility of all agencies to keep children and young people safe, using a pragmatic 'safety first' approach, when making decisions regarding homelessness. In all cases, where a young person presents as homeless, action(s) will be taken by the receiving agency, to ensure that immediate and pragmatic safety is assured for the young person. Agencies will share information about a young person and their family, subject to their consent. Where accommodation is needed as an emergency solution to keep the young person safe during full assessment, the agency where the young person first presented will arrange this.

Legislation, government guidance and case law are clear what should happen when a young person is homeless or at risk of homelessness and they are not able to stay or return to the parental home or family network. This specifies how their needs should be assessed and which agency, if any, should take statutory responsibility for their housing and support or care needs (if homelessness cannot be prevented), both during and after that period of assessment. The detail is set out in Appendix 3 - The Legal Position.

This protocol is triggered when a young person presents as homeless and does not have an active open case with Children and Young People's Services in Suffolk, this includes Early Help and Social Care Teams.

#### **Step One – How it works** (*Determining Initial Outcomes and Ongoing Assessment*)

**"How it works"** (Appendix 1) sets out the decision making process and identifies where the responsibility lies. It makes absolutely clear the lead role to be taken by the Multi-Agency Safeguarding Hub (MASH) in early identification of initial outcomes. It gives clarity over the pathway(s) to be taken by homeless young people and will hopefully save time

and resources by simplifying the process, avoiding duplication and making the experience less distressing for the young person.

The Multi-Agency Referral Form (MARF) is completed and submitted to the MASH.

MASH will determine the initial outcomes:

- Young person is able to return home supported by Housing Authority and CYP Early Help Team working collaboratively in a prevention capacity.
- Young person is able to return home or to family network with agreement supported by Children and Young People's Services (Social Care).
- Young person requires accommodation, supported by Social Care under Sec 20, supported by Housing Authority.
- Young person requires accommodation only with no support needs.

**Step Two - Housing Options Pathway** (*Identifying potential housing options alongside assessment*)

The "Housing Options Flowchart" (Appendix 2) sets out the main three housing and care/support pathways. It identifies the main housing routes to independence based on the level of support the young person needs. For simplicity sake we have identified three main routes, however, linkages may be more complex in practice.

## 4. Our Definition of Success

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- A reduction in homelessness and an increase in young people living in suitable accommodation.
- Young people sustaining independent living and making a successful transition to adulthood.
- Young people involved in decisions affecting them and able to make choices about their housing options.
- An integrated approach to working with young people at the earliest opportunity.
- A cost effective, sustainable housing provision, utilising community resources and affordable housing.

## 5. Our Measures of Success

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We will measure the Protocol's success on a six monthly basis by the quality of its local delivery in each of Suffolk's seven districts, as follows:

- Regular monitoring of numbers of homeless young people through the YPHAG.
- Interviews with young people who have been successfully prevented from becoming homeless by staying at home or in the family network.
- Interviews with young people who have now been settled in independent and sustainable housing.
- Interviews with young people who have presented as homeless but have not yet settled in independent and sustainable housing.
- A "walkthrough" with local staff to ensure that the pathways approach is being used as set out in this document.

## 6. Monitoring and Review

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The Protocol has been commissioned by Suffolk Local Safeguarding Children Board, Suffolk Corporate Parenting Board and Suffolk Strategic Housing Partnership. There is a commitment by all groups to monitor the progress of the protocol on a six monthly basis.

Suffolk Young Person Housing Action Group (YPHAG) will monitor the following:

- The number of young people presenting as homeless (through contacts on MASH information system).
- The number and % of young people where homelessness is prevented.
- The number and timescales for statutory assessments (to determine if the homeless young person is a Child in Need) carried out by CYP, specific to 16-17-year olds who are homeless.
- The number of CAFs in respect of homelessness opened on 16-17-year olds.
- Early prevention figures when the problem has been identified and resolved.
- Analyse information gathered from Section 4.
- As the primary link for Children's Services to engage with district councils and other key partners in respect of tackling youth homelessness and with a responsibility to monitor homelessness data and trends, the 16-17-year-old Homelessness Co-ordinator will lead on collating this information.
- Cause of homelessness.
- Assessment outcomes.
- Number of cases escalated through the dispute process and outcomes.

## 7. Dispute Resolution

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Should a dispute occur we have included a place for resolution. It will take place on a case by case basis in a way that does not undermine relationships at a local level.

Legislation, case law and government guidance emphasise the importance of the Protocol as the means by which the statutory services will be held to account to homeless and vulnerable young people for the service that they provide.







The most likely place where conflicts will arise is over the young person's initial assessment. There are three parties to that assessment – the County, the District and the Young Person. Any one of these can escalate the disagreement to a formal conflict.

If the agencies and their managers cannot resolve the issue informally, it is agreed that all parties will use the Dispute Resolution process as published by the Suffolk Local Safeguarding Children Board (LSCB) in August 2015, with the provision outlined above that we recognise there are three parties in this process and that the young person can also escalate an issue through conflict resolution via their advocacy service.



## 8. Signatories

The following statutory organisations sign up to the principles set out in this Protocol, and commit to its aims and objectives.

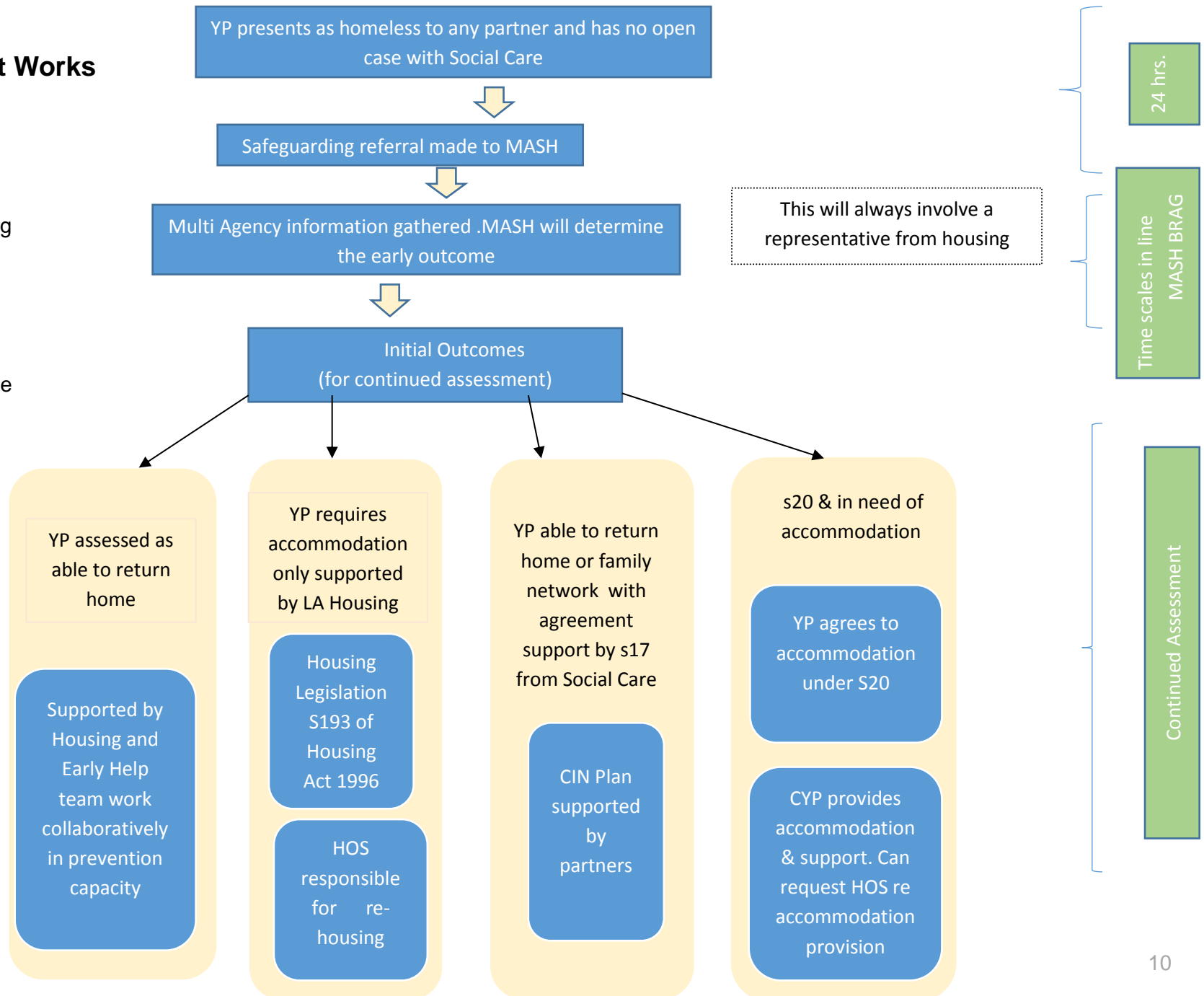
Organisation	Signed by	Name and designation	Date
<b>Suffolk County Council</b> David Jacobs Head of Service Social Care Fieldwork, Children and Young People's Services		David Jacobs Head of Social Care	27/9/2016
<b>Suffolk County Council</b> Anita Farrant Head of Service Early Help, Children and Young People's Services		Anita Farrant Head of Early Help	27/9/2016
<b>West Suffolk Councils</b> Simon Phelan Head of Housing Service St Edmundsbury Borough Forest Heath District		Simon Phelan Head of Housing	29/9/2016
<b>Ipswich Borough Council</b> Ian Blofield Head of Housing Service		IP Blofield Head of Housing & Community Services	22/9/2016
<b>East Suffolk Councils</b> Justin Hunt Head of Housing Service Waveney District Suffolk Coastal District		Justin Hunt Head of Housing Services	17/8/2016
<b>Mid Suffolk &amp; Babergh District Council</b> Martin King Head of Housing Service		Martin King Assistant Director Supported Living	26/10/2016

## Appendix 1 – How it Works

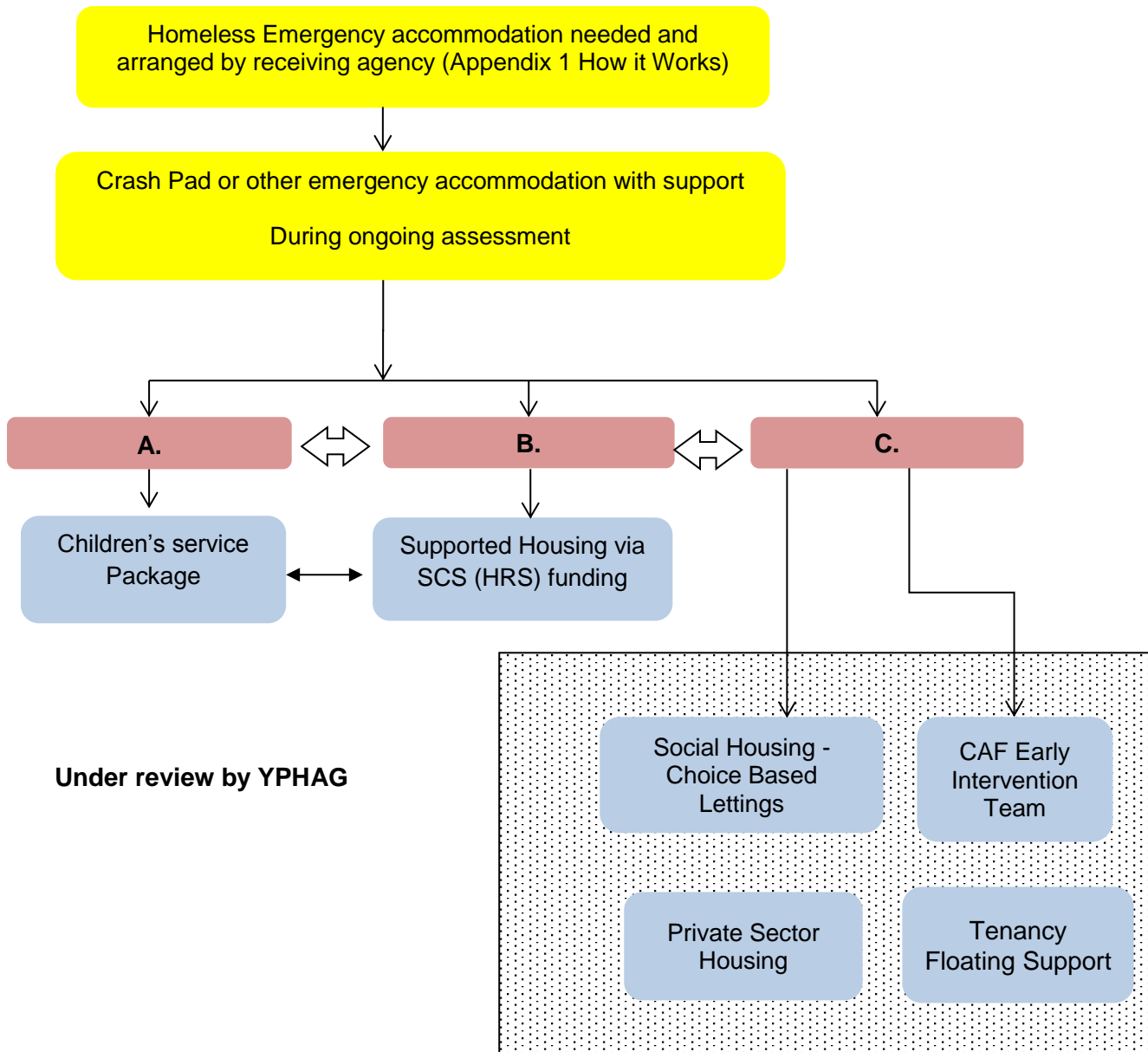
It is the responsibility of all Agencies to keep children and young people safe, using a pragmatic 'safety first' approach when making decisions regarding homelessness.

Where accommodation is needed as emergency solution to keep the YP safe during full assessment, the agency where the YP first presented will arrange this.

This will be reviewed at 10 days if there is no conclusive assessment outcome.



## Appendix 2 - Housing Options Flow Chart v3



It is highly likely that a young person will move from a higher to a lower level of support across the pathways in their transition to independence. Thus it is important that there are no local gaps in provision, that there is no “bed blocking” and that the processes work as smoothly as possible.

In very simple terms, these 3 pathways can be described as follows

**A.** Young People with fairly chaotic lifestyles who require intensive support to move them on to one of the other routes where a lower level of support is provided. Their needs, at least in the short term, are characterised by the level of care and support that they need, rather than their housing needs; this would typically be in a shared environment where Children’s Services provide or at least commission a rigorous care and support programme. This is the most difficult pathway to get right and to fund.

**B.** Young People who require a supportive environment for a few months in order to develop independent living skills; this would typically be a shared house, hostel or foyer; support would typically be provided by third sector organisations. This is the pathway that requires the biggest capital investment, as well as ongoing revenue support.

**C.** Young People who require some assistance to move into independent living, possibly with a low level of support for a limited period.

## **Appendix 3 - The Legal Position**

This protocol is designed to ensure that the law is properly applied so that the best possible outcome can be achieved for homeless 16 and 17 year olds.

The statutory entitlements of homeless 16 and 17 year olds are enshrined in the Children Act 1989 and the Housing Act 1996 and the relationship between these two pieces of legislation has proved to be complex and contentious. Consequently, case law and central government guidance now play a fundamental role in the interpretation and application of the law and in the application of this protocol.

### **Housing Act 1996**

Part VII of the Housing Act 1996 outlines the legal responsibilities of a District or Borough Council in terms of assisting people who approach the housing authority as homeless.

In recognition of their vulnerability homeless 16 and 17 year olds are automatically classed as in priority need. This means most young homeless people will be entitled to some sort of settled accommodation secured by the housing authority; unless they are deemed to be intentionally homeless, in which case they will only be entitled to temporary accommodation of a sufficient duration to enable alternative accommodation arrangements to be made.

The Housing Act recognises that some people will be homeless and roofless before a council can carry out its enquiries and make a decision about what duty is owed. Consequently, section 188 of the Act consists of a duty to secure interim accommodation pending a decision, if there is reason to believe that the applicant may be homeless, eligible for assistance and in priority need.

To protect the welfare of potentially vulnerable homeless people the threshold for section 188 is relatively low and it is this interim accommodation duty that is used under the protocol when a homeless 16 or 17-year-old makes their initial approach to a housing authority.

Homeless applicants are entitled to a written decision under section 184 of the Act and those who receive a unfavourable decision are entitled to request a review under section 202. The deadline for requesting a review is 21 days but a local authority has the discretion to accept an out of time review. An applicant who is dissatisfied with a review decision has the right to appeal to the county court on a point of law.

### **Children Act 1989**

Part III of the Children Act outlines the County Council's duties towards children in need, which in the majority of cases will include a homeless 16 or 17-year-old.

Under Section 17(10) of the Act a homeless young person will be a child 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 of services under Part III of Children Act;*
- (b) his health or development is likely to be significantly impaired, or further impaired, without the provision of such services; or*
- (c) he is disabled.*

Section 17 of the Act also sets out the responsibilities of the County Council to provide services for a child in need and this can include providing accommodation and giving assistance in kind or cash.

Section 20(1) of the Act provides for children in need without accommodation:

*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.*

In addition, Section 20(4) states 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.*

As a result of being accommodated under section 20 a young person will become 'looked after'; meaning the County Council will owe them the same duties as owed to other looked after children and care leavers (contained in sections 22 and 23 of the Act).

Section 26 of the Children Act contains provisions for dealing with complaints, which consist of a three-staged process beginning internally with a local manager and escalating to stage-three, which involves an independent review panel

## **Case Law**

A long history of legal disputes between Housing Services and Children and Young People's Services about whether young people should be housed under the Housing Act or accommodated under the Children Act has resulted in some important case law, the most significant being:

*R (M) v Hammersmith and Fulham [2008] UKHL 14*

<http://www.publications.parliament.uk/pa/ld200708/ldjudgmt/jd080227a/hammer-1.htm>

*R (G) v Southwark [2009] UKHL 26*

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

The Southwark case is generally referred to as the authoritative case as it restated the legal position outlined in the Hammersmith case and it set out the approach children's services authorities should take when performing their statutory duties in respect of homeless 16 and 17 year olds.

The key principles of the Hammersmith and Southwark rulings are:

- The clear intention of the legislation is that a homeless 16 or 17-year-old needs more than a roof over their head - meaning that a young person's homelessness is more than a housing problem (paragraph 4 of Hammersmith judgment and reiterated at paragraph 5 of Southwark judgment).

- Local children's services authorities should presume that any lone, homeless child should be provided with accommodation under section 20(1) of the Children Act 1989 unless and until the child is assessed as not being a 'child in need' (paragraph 20 of Southwark judgment).
- The Children Act has primacy over the Housing Act in providing for homeless children in need (paragraph 15 of Hammersmith judgment and paragraph 25 of Southwark judgment).
- Section 20 has primacy over section 17 in terms of meeting the needs of homeless 16 and 17 year olds under the Children Act (paragraph 25 of the Southwark judgment). If the section 20 duty has arisen and the children's authority has provided accommodation for the child they cannot 'side-step' the issue by claiming to have acted under some other power. In particular they cannot claim simply to have been acting under the general duty in section 17(1) (paragraphs 9 & 10 of Southwark judgment).
- The small minority of cases to which a section 20 accommodation duty will not apply are likely to be where the young person has been living independently for some time prior to their homelessness and those whose need for accommodation fell within section 20 but who did not want to be accommodated under section 20. Such young people must be judged to be competent to make such a decision and have had the benefit of advice about the consequences of making such a decision. (Paragraphs 28(5)(c) and 28(6)(b) of Southwark judgment).

## Statutory Guidance

The current Central Government Guidance was issued jointly by the Department for Children, Schools and Families and the Department for Communities and Local Government in April 2010 in response to the Hammersmith and Southwark cases:

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

<https://www.gov.uk/government/publications/provision-of-accommodation-for-16-and-17-year-olds-who-may-be-homeless-and-or-require-accommodation>

The guidance very much reiterates the case law and some of the most salient points are as follows:

- Section 20 of the Children Act takes precedence over the Housing Act 1996 (paragraph 1.1).
- The powers to accommodate under section 17 cannot be used as a substitute for accommodating under section 20 – Children's services do not have discretion to decide which duty they accommodate under (paragraph 2.55).
- Preventative work should take place alongside the statutory assessment; it should not delay the assessment or the delivery of statutory services (paragraph 2.3).
- An initial approach to housing services should be treated as a homelessness application (paragraph 2.9).
- If a young person approaches housing services and they may be homeless or likely to become homeless within 28 days an immediate referral to children's services should take place (paragraph 2.11).
- Bed and Breakfast is unsuitable for 16 and 17-year olds (paragraphs 2.10, 2.16).

- An initial approach to integrated services should be treated in the same way as an approach to children's services (paragraph 2.13 and 2.15).
- Following an approach or referral, children's services must carry out a child in need assessment and consider whether a section 20 duty is owed where the young person appears to be homeless (paragraph 2.15).
- Where a 16 or 17-year-old seeks help from children's services and appears to be without safe accommodation that night children's services must secure suitable emergency accommodation and this will mean the young person becomes looked after under section 20(1) of the Children Act (paragraphs 2.16 and 2.35).
- If a duty is accepted under section 20 and the young person accepts the accommodation no further duty will be owed under the Housing Act (paragraph 2.11).
- If a young person requires accommodation as a result of one of the factors set out in section 20(1)(a) to (c) (see previous Children Act summary on pages 10-11) they shall be a child in need (paragraph 2.22).
- Where a young person is excluded from home, is sofa surfing among friends, or is sleeping in a car it is extremely likely that they will be a child in need (paragraph 2.24).
- The assessment should take account of all the young person's needs (not just accommodation) (paragraph 2.26).
- The assessment should determine whether young person can return home (paragraph 2.27).
- The assessment must reach a decision about whether the young person is a child in need and whether they are owed a duty under s20 (paragraph 2.33).
- The young person's wishes and feelings must be taken into account (paragraphs 2.44 to 2.53).
- A young person must be fully advised about the services available to them so that they are able to make an informed decision (paragraph 2.48).
- Reluctance on the part of a young person to 'engage' cannot be the basis for not attempting to meet the Children Act duties (paragraph 2.52).
- Where a young person refuses accommodation offered under section 20 children's services must be satisfied that the person has been provided with all relevant information and is competent to make such a decision (paragraph 2.53).
- If it is decided no section 20 duty is owed, or if the young person refuses accommodation under section 20, children's services must consider how to meet support needs in conjunction with housing services (paragraph 4.1, 4.4 and 4.7).
- A refusal of accommodation offered under section 20 of the Children Act cannot result in a decision that the person is intentionally homeless (paragraph 4.10 and 4.11).

## Working Together to Resolve Professional Disputes

*This Quick Guide and the full Policy must be used together with the Suffolk Safeguarding Children Board Procedures and Guidance found at [www.suffolkscb.org.uk](http://www.suffolkscb.org.uk).*

Suffolk LSCB recognises that in most circumstances, professionals in Suffolk refer cases appropriately and there is mutual agreement on the status and disposal of the referral.

However, the LSCB also recognises that there are situations where disputes over thresholds emerge.

This quick guide is intended to assist in circumstances where a threshold is contested. There may also be occasions when concerns about professional practice may be raised in respect of an individual, or group of individuals, or where there may be concerns about the response of a professional colleague to a situation involving actual or likely harm to a child.

The first and key principle should be that it is everyone's professional responsibility to problem solve and come to an agreed resolution at the earliest opportunity, always keeping in mind the child's safety and welfare.

All agencies are responsible for ensuring their staff are competent and supported to escalate appropriately intra and inter-agency concerns and disagreements about a child's wellbeing.

### **Dispute at the Point of Referral:**

1. The referrer and their Manager re-visit the referral, taking into consideration any comments that have been made by the receiving service and any appropriate amendments made.
2. Following amendments, if dispute continues then professionals should attempt to resolve difference through discussion and/or meeting within 5 working days [or a timescale that protects the child]. Consideration may be given to calling a professional's meeting involving Children and Young People's Service.
3. If professionals are unable to resolve differences within timescale, their disagreement must be addressed by more experienced/senior staff. Most day to day inter-agency differences of opinion will require a LA children's social care team manager to liaise with their first line manager equivalent in the relevant agencies. These first line managers may wish to seek advice from their agency's nominated/designated child protection adviser.



4. If agreement cannot be reached between first line managers within a further 5 working days or a timescale that protects the child [whichever is less], the issue **MUST** be referred without delay through the line management to a senior manager.

Alternatively, [i.e. in Health Services] input may be sought directly from the designated nurse or doctor in preference to the use of line management.

5. The professionals involved in this process must contemporaneously record each intra and inter-agency discussion they have, approve and date the record and place a copy on the child's file, together with any other written communications and information.
6. Where professional differences remain unresolved, the matter must be referred to the heads of service for each agency involved. In the unlikely event that the issue is not resolved by the steps described above, and/or the discussions raise significant policy issues, the matter should be referred urgently to the LSCB for resolution.

### **Dissent regarding the implementation of a child protection plan:**

Professionals in all agencies have a responsibility to act without delay to safeguard the child [i.e. by calling for a case to be allocated or for a strategy meeting/discussion, for a core group meeting or for a child protection conference or review conference].

Concern or disagreement may arise over another's professional decision, action or lack of action in the implementation of the child protection plan, including the timing, quoracy or decision making of core group meetings, progress of the plan or professional practice. Professionals should therefore attempt to resolve differences in line with the actions outlined above.

### **Specialist Facilities**

Specialist regional facilities, e.g. Mother and Baby Units, must have in place a protocol/guidance which sets out how any dispute between professional bodies will be managed. This protocol/guidance should take account of the role of the Local Authority Children & Young People's Service in the locality of the specialist service.

Further information about all Suffolk Safeguarding Children Board publications can be found on our website. [www.suffolkscb.org.uk](http://www.suffolkscb.org.uk)