



homeless link

Standing up for kids

JUST FOR KIDS



LAW

Supporting homeless 16- and 17-year-olds

Guidance for voluntary and community sector organisations



Homeless Link is the national membership charity for frontline homelessness services in England.

Just for Kids Law is a charity that empowers children and young people and stands up for their rights.

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Introduction

Young people who become homeless aged 16 and 17 are protected by and entitled to support from different pieces of legislation. The legislation young people are housed under will affect their journeys in and out of homelessness, the support they are entitled to in the short and long term, and therefore their risk of future homelessness.

Recent research, however, has shown that not all local authorities provide young people with the information they need to be able to make an informed choice. **Each year, local authorities accommodate an estimated 2,585 homeless 16- and 17-year-olds without making them looked-after children, which has extensive long-term implications on the support they will receive for years after.**¹

Though some of these young people will have made a fully informed decision not to enter care, many others would not have been given the option, or been fully informed of the consequences of their choice. In 78% of the cases taken on by the Just for Kids Law's legal team where local authorities had previously and unlawfully refused to house young people as **looked-after children**, the local authorities quickly conceded and accepted their corporate parenting responsibility, most often without judicial action needing to be taken.²

This illustrates how crucial it is that young people understand their rights under each route. Young people supported by homelessness services consistently raise that they did not have access to the right information when they became homeless.^{3, 4} Voluntary sector organisations supporting young people should be equipped to support them through their interactions with local authorities, provide them with the information they need to make informed decisions and ensure they are supported and housed through the most appropriate legislation so that their needs are met.

We cover:

- ✓ The legal entitlements of 16- and 17-year-olds who become homeless and of care leavers, and how this translates to the different roles and responsibilities of children's services and housing services.
- ✓ Advice on supporting young people to approach their local authority.
- ✓ Practical advice on supporting young people and facilitating informed decision making, in a trauma-informed way.
- ✓ Supporting young people with specific circumstances, such as young people leaving institutions, young people with insecure immigration status and young people with children.
- ✓ Information on where to get further support and resources.

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We have created this resource so professionals can identify what support a young person is entitled to at any point in their homeless journey and provide practical advice on how professionals can advocate for 16- and 17-year-olds, so they are offered the most appropriate route to housing and support. It has been developed for front-line workers, volunteers and service managers in homelessness organisations, advocates, youth workers and more widely all professionals who come into contact with 16- and 17-year-olds faced with homelessness.

This resource covers legislation and practice in England only.

This resource does **not** apply to young people who are already looked after (in care). When a **looked-after child** becomes homeless for any reason, their social worker should be contacted urgently so they can provide them with a suitable, safe, and stable placement.

Endnotes

- 1 Just for Kids Law (2020) *Not in Care, Not Counted* <https://justforkidslaw.org/sites/default/files/fields/download/Just%20for%20Kids%20Law%20-%20Not%20in%20care%2C%20not%20counted%20-%20June%202020.pdf>
- 2 Just for Kids Law (2020) *Not in Care, Not Counted* <https://justforkidslaw.org/sites/default/files/fields/download/Just%20for%20Kids%20Law%20-%20Not%20in%20care%2C%20not%20counted%20-%20June%202020.pdf>
- 3 Homeless Link (2020) *We Have a Voice, Follow our Lead* www.homeless.org.uk/sites/default/files/site-attachments/Young%20and%20Homeless%202020.pdf
- 4 Youth Voice (2019) *Youth Homeless Parliament Report* <https://stbasils.org.uk/wp-content/uploads/2020/02/YHP-Final-2019-PDF.pdf>

Key messages

- Which legislation 16- and 17-year-olds are housed under has long term implications as it affects the support they will be entitled to both before and after they turn 18.
- Professionals working with young people who are homeless/at risk should educate themselves about the rights of young people under each piece of legislation in order to support and advocate for young people.
- All homeless 16- and 17-year-olds should receive a **child in need** assessment after presenting to their local authority as homeless. The vast majority will likely be owed a duty to be housed under section 20 of the Children Act, as a **looked-after child**, which will ensure they will receive support until they turn 25.
- **Child in need** assessments can be intrusive and upsetting to young people. As a service it is important to:
 - > Identify whether you are in the best position to support and advocate for the young person throughout the process of presenting to the local authority, and if not refer the young person to the appropriate service.
 - > Provide young people with age-appropriate information, and facilitate informed decision-making around their housing options,
 - > Work in ways that empower young people, that are trauma informed and respect the adversity young people are experiencing.

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Glossary

Note on terminology

The information in this resource specifically relates to children aged 16 and 17. In legal terms and as set out in the UN Convention on the Rights of the Child, 16- and 17-year-olds are children. However, in this resource, we mainly use the phrase 'young people' in recognition that this is how many 16- and 17-year-olds would describe themselves.

The legal terms around homelessness, social services and being in care can be confusing but it is useful to have a handle on these terms as they may come up in communications with local authorities. They are bolded throughout the resource as a reminder to check the glossary. These definitions are accurate to date of publication.



Legal categories of care-experienced young people

These different legal categories all come with slightly different entitlements, but the young person is always entitled to at least some support from their local authority.

Looked-after child

A looked-after child is a child (under 18) who has been in the care of their local authority (council) for more than 24 hours. Looked-after children usually live with foster parents, in children's homes, in residential settings such as secure units, or in semi-independent, independent or supported accommodation placements that aren't regulated by Ofsted.

Eligible child

An eligible child is a child who is aged 16-17 and who has been looked after by a local authority for at least 13 weeks since they were 14, and who continues to be looked after (in care).

Relevant child

A relevant child is a child aged 16-17 who is no longer looked after by a local authority, but who was previously looked after for at least 13 weeks after the age of 14 and was looked after for a period of time after they turned 16. If the child left care by returning home, they will stop being a relevant child after six months and become a qualifying care leaver.

Former relevant child

A former relevant child is a young person aged 18-25 who used to be an eligible or relevant child. They are also referred to as care leavers.

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Qualifying care leaver

A qualifying care leaver (sometimes referred to as a qualifying young person) is a young person aged 16-25 who was looked after for less than 13 weeks after their 14th birthday and for at least a day after they turned 16.

Other legal terms

Child in Need

A Child in Need is a child (under 18) who needs local authority services to achieve or maintain a reasonable standard of health or development, or to prevent significant or further harm to health or development, or who is disabled.

Priority Need

Priority Need is a term used in homelessness legislation. It is one of the tests that a person who becomes homeless needs to pass in order to be supported into long-term housing by the local authority and receive emergency accommodation. There are different priority need categories, including young people aged 16-17, care leavers aged 18-20, and care leavers aged 21-24 if they are vulnerable due to their time spent in care.

If a person has priority need it means the local authority will provide accommodation when presenting as homeless e.g. give them a social housing bidding number or support the young person to obtain accommodation in the private rented sector. Visit Shelter's website for more information on homelessness policy in England: https://england.shelter.org.uk/housing_advice/homelessness.

Separated children

Separated children are children under 18 who are outside their country of origin and have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. This includes unaccompanied asylum-seeking children (UASC) which is the term used by the Government. As they have no adult to care for them, these children are therefore 'in need' and become looked after children in the care of local authorities.

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Legal entitlements of homeless 16- and 17-year-olds

The body of legislation governing the legal entitlements of homeless 16- and 17-year-olds is complex. Practitioners working with young people facing homelessness should have an understanding of the young person's rights and entitlements, so that they can inform the young person, explain their rights to them and support them in accessing their entitlements.

In 2010, the Department for Education and the Ministry of Housing, Communities and Local Government published joint statutory guidance to clarify local authorities' duties under this body of legislation. This guidance is called "*Prevention of homelessness and provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation*".⁵ Throughout the rest of this document we refer to this statutory guidance as the [joint guidance](#).

The joint guidance was published following the landmark Southwark judgement⁶ in 2009 and updated in 2018 to reflect new duties introduced by the Homelessness Reduction Act 2017. As it is statutory guidance, local authorities must follow it unless there is an exceptional reason not to do so.

This section provides an overview of the relevant laws and statutory guidance as well as the duties held by local authorities' children's services and housing services, and information on the support young people are entitled to under each piece of legislation.

Note on references: Where we reference the joint guidance in the text, we have made a note of the relevant paragraph as [para. XX].

At the time of writing, the joint guidance had last been updated in 2018. We recommend checking the [government website](#) for any updates made after the publication of this resource, as this may affect paragraph references.

Relevant legislation

There are two key pieces of legislation relating to 16- and 17-year-olds who are faced with homelessness, which determine what local authorities' duties towards them are. These are:

The Children Act 1989

As children under the law, one of the key pieces of the legislation affecting homeless 16- and 17-year-olds is the Children Act 1989. The relevant provisions are:

Section 20 which establishes that local authority children's services have a duty to accommodate **children in need** who live in their area and are unable to live with their families or the person caring for them.

Section 17 which lays out local authorities' general duties towards **children in need** in their area. Sometimes a homeless young person will be provided accommodation under section 17, but there are very few circumstances where this is appropriate - **see the box on Section 17**.

The Housing Act 1996

Among other things, the Housing Act 1996 deals with local authorities' duties to prevent and relieve homelessness. The relevant section is **Part VII of the Housing Act** which establishes that 16- and 17-year-olds are in **priority need** for support from housing services if they are homeless, provided they are not a **relevant child** or a **child in need** to whom the local authority owes a duty under section 20 of the Children Act.

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Initially this can seem confusing as it means that both children’s services and housing services owe a duty to homeless 16- and 17-year-olds. Crucially however, the Southwark judgment has established that children’s services have the **primary duty** to homeless 16- and 17-year-olds, which is confirmed in the joint guidance too:

“where a 16 or 17 year old is owed duties under section 20 of the 1989 [Children] Act, this takes precedence over the duties in the 1996 [Housing] Act in providing for children in need who require accommodation” [para. 1.2]

Roles and responsibilities of children’s and housing services

This section summarises the relevant duties owed to homeless 16- and 17-year-olds by local authority children’s services and housing services as laid out in the joint guidance.

Young people are entitled to the support of an independent advocate to help them navigate this – see the section on Supporting 16- and 17-year-olds to approach their local authority.

Children’s services

Children’s services hold the primary duty to homeless children aged 16 and 17 regardless of their immigration status [paras. 1.2, 3.3 and 6.2].

When a 16- and 17-year-old presents as homeless to their local authority, they must receive a child in need assessment (also known as a section 17 assessment) carried out by children’s services – even if they first approached housing services.

Local authorities have a duty to safeguard and promote the welfare of children in need in their area (section 17 of the Children Act). Under sections 20(1), 20(3) and 20(4) of the Children Act, local authorities have to provide accommodation for children in need in their area, who need accommodation.

Duty to refer

Under the Homelessness Reduction Act 2017, children’s services have a duty to refer people faced with homelessness to housing services when provided with consent from the person affected. This extends to 16- and 17-year-olds. Where a young person is referred by children’s services to housing services under this duty, both services should work together to ensure the young person’s needs are met.

The referral does not cancel any of children’s services responsibilities towards young people but should instead be used to strengthen collaboration between children’s and housing services [para. 3.65].

Children seeking asylum who have no responsible adult to care for them are **separated** or ‘unaccompanied’ (See **"Non-UK Nationals" box below for further information**) and are therefore ‘in need’ under section 17. Children’s services have a gateway duty to assess such children under section 17, and then, almost always, to accommodate them under section 20 of the Children Act 1989, the same as any other child.⁷

For unaccompanied asylum-seeking children in the UK with no parent or carer able and willing to provide accommodation the presumption is that they fall within the scope of section 20, unless the needs assessment results in another response being considered more appropriate (for example if a trafficked child is at risk and it is appropriate to initiate care proceedings under section 31 of the Children Act 1989).

As much as possible, a preventative approach to identifying and resolving the issues which have led to the young person

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Child in need assessments

General information on **child in need** assessments can be found in the statutory guidance [Working Together to Safeguard Children](#). The assessment should be carried out by a social worker leading a multi-agency assessment, gathering information about the young person and their family, including the young person's wishes and feelings, analysing the needs of the young person (including the level of risk/harm they are exposed to), and deciding what support is needed from which agency.

When a **child in need** assessment is required due to risk of homelessness being identified, the assessment should ideally be jointly conducted by children's services and housing services to better coordinate the work, but still be led by children's services [para. 3.19].

More information on the **child in need** assessment can be found in paragraphs 3.14 to 3.50 of the joint guidance.

being threatened with homelessness will be preferred. This is in recognition that generally, it will be in the best interests of most young people to live in the family home, or, where this is not safe or appropriate, with responsible adults in their wider family and friends' network.

In practice, this means that children's and housing services will keep in contact with the young person's family and attempt to resolve issues which have led to the young person being faced with homelessness, unless this puts the young person at risk.

The maximum timeframe an assessment should be concluded in is 45 working days [para. 3.33]. If the young person does not have anywhere safe to stay while the **child in need** assessment is being conducted, children's services must secure suitable emergency accommodation for them [para. 3.4] and provide support for any other needs identified during the course of the assessment [para. 3.35]. Where a 16- and 17-year-old is homeless, it is very likely the local authority should find them to be a **child in need** owed duties under section 20 of the Children Act – for example, the joint guidance states that a young person who is unable to live at home and has been staying with friends or in a car is extremely likely to be a **child in need** [para. 3.16].

The outcome of the **child in need** assessment for a homeless 16- and 17-year-old may conclude:

- ▶ The young person is a **child in need** and entitled to accommodation under section 20 of the Children Act. If this happens and they are accommodated for a period of more than 24 hours, they become a **looked-after child**.
- ▶ The young person is not a **child in need** and therefore should be provided with accommodation by housing services under Part VII of the Housing Act 1996 as a '**priority need**' category. The young person will not be looked after.
- ▶ The young person is a **child in need** but is not entitled to accommodation under section 20 - this would happen when the young person is able to return to their family's care with the local authorities providing support services to their family.



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If the young person is found to be a **child in need** and is entitled to accommodation under section 20, they can refuse this **once they have been properly and fully advised of the short-term and long-term consequences of this decision.**

In this situation, the joint guidance states that children's services must be satisfied that the young person has been provided with the relevant information, is competent to make such a decision, and that the services do not need to take additional safeguarding action [para. 3.49]. If they are satisfied that this is the case, children's services should refer the young person to housing services to help them secure accommodation. Children's services should still draw up a **child in need** plan for the young person laying out what other support they will receive to meet their needs [para. 3.50]. A professional supporting a young person can request to see the **child in need** plan if they have the young person's consent.

Please see Appendix A for a printable resource that can be shared with young people detailing what support will be available to them under each assessment outcome.

Housing services

When approached by a 16- or 17-year-old who is homeless, housing services should treat the approach as a homelessness application under Part VII of the Housing Act. This means that if they have reason to believe the young person may be homeless or at risk of homelessness, they must investigate to ascertain whether they owe any duties to the young person. If they establish that the young person is faced with homelessness and eligible for housing assistance (which is based on nationality/immigration status), they will owe them either a prevention duty (when the young person is at risk of homelessness) or a relief duty (when they are homeless). They should also provide the young person with emergency accommodation when needed [para. 4.2].

Accommodation provided under Section 17

Children's services sometimes provide accommodation to homeless 16- and 17-year-olds on their own under section 17 of the Children Act, though it is rarely appropriate as the young person would receive little support.

Section 17 establishes that local authorities have a duty to safeguard and promote the welfare of **children in need** in their area. In cases of homelessness, section 17 is primarily used to accommodate **families with children in need**. The joint guidance clearly states **section 17 cannot be used as a substitute for local authorities' duties to young people on their own under section 20** [para. 3.59].

Section 17 can be used by children's services to accommodate homeless 16- and 17-year-olds on their own as a last resort, when all other routes have failed:

- ▶ when the young person does not wish to be accommodated under section 20, and,
- ▶ when it is subsequently found that the young person is also not owed the main accommodation duty by housing services, for example because they have refused a suitable offer of accommodation or are found to be intentionally homeless.

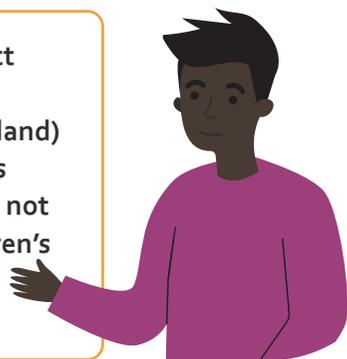
Where a young person is accommodated under section 17, they will not be looked after by the local authority and accommodation will only be provided until they turn 18.

If the above criteria has not been met but the young person you are supporting is still housed under section 17 by their local authority, you should seek legal advice. Information on finding a community care solicitor can be found in the section on Where to seek further support and information.

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Under part VII of the Housing Act and the Homelessness (Priority Need for Accommodation) (England) Order 2002, 16- and 17-year-olds who are not in care and who are not owed a section 20 duty by children's services have **priority need** for accommodation.



If the initial assessment by housing services finds that the child is not eligible due to their immigration status, or that they are already in care, arrangements must be made immediately for them to receive assistance from children's services [para. 4.5] who will most likely owe them a duty. If a **separated child** presents to housing services as homeless, they should be referred to children's services who should assess them and most likely accommodate them under section 20.

During the prevention or relief stage, housing services should refer homeless young people to children's services so that the **child in need** assessment can be conducted [para. 4.6]. They should then coordinate their work with children's services during the process of the **child in need** assessment to ensure the needs of the young person are met [para. 4.17].

16- and 17-year-olds cannot be permanently housed under Part VII of the Housing Act without a **child in need** assessment being completed by children's services to determine whether or not a section 20 duty is owed.

Joint working

The joint guidance advises local authorities to establish joint working protocols to prevent and relieve youth homelessness. These should clarify their respective duties so that young people are not bounced between services, work is not duplicated and so there are clear points of engagement for the young person. This can also take the form of integrated youth homelessness services.

More information on this can be found in paragraphs 6.1 to 6.18 of the joint guidance. St Basils have developed guidance for local authorities to promote better joint working between departments. This is called the Positive Pathway and can be found on their website: <https://stbasils.org.uk/about-us/the-positive-pathway/>.

Once the **child in need** assessment has been completed, housing services will only continue to support the young person under Part VII of the Housing Act if:

- ☑ A section 20 duty was owed but the young person refused to become a **looked-after child** after being fully and properly advised of the consequences, or
- ☑ Section 20 duty is not owed.

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More information on the duties owed if a young person is supported by housing services can be found in paragraphs 4.11 to 4.33 of the joint guidance. For the most part, this will be similar to duties owed to adults under homelessness legislation.

If, for any reason, the duties owed to the young person by housing services come to an end without the young person being in stable accommodation, housing services must inform children’s services who may need to take further action [para. 3.48]. If a section 20 duty had previously been owed but refused by the young person, children’s services should ask the young person whether they wish to reconsider. If the young person still does not wish to be accommodated under section 20, children’s services should offer to accommodate them under section 17 of the same Act [paras. 3.60 and 3.61].

What support are young people entitled to under each route?

The route the young person goes down has long term implications as it affects the support, they will be entitled to both before and after they turn 18.

Please see Appendix A for a printable resource for young people explaining the different entitlements under each piece of legislation.

Before they turn 18

A young person who is housed by children’s services under section 20 and becomes a **looked-after child** should have a social worker who will visit them every six weeks. They should have a Care Plan in place and a Pathway Plan created laying out how their needs will be met and how their long-term goals will be achieved. They should be able to keep in touch with their family if they wish to, have their rent paid and all their financial needs met, be provided



by pocket money and money for birthdays and holidays. If they are in care for more than 12 months, the local authority should open a savings account for them and contribute to it.⁸

The level of support a young person housed under Part VII of the Housing Act or by children’s services under section 17 of the Children Act is entitled to is much lower. The specific support they will receive will depend on what services are available locally, and their circumstances. They will not have a legal entitlement to a social worker (although some local authorities may provide them with one at their discretion), they may be required to claim benefits and pay rent for their accommodation and they are not guaranteed to further support once they turn 18.

After they turn 18

There are different categories used to distinguish children who have been in local authority care, which are outlined in our Glossary. The different categories are mainly dependent on the length of time a young person spent in care and when in their lives this occurred. It is worth understanding and familiarising yourself with these categories as you may support young people who have been in care who are entitled to support from social services but are not receiving it or are not aware of their rights. We summarise some of the support young people under each category are entitled to below and more information can be found on the [Child Law Advice website](#).

Former relevant children are young people who are more commonly known as care leavers. The local authority has a duty to provide a range of services to **former relevant children** from 18 to 21 to support the transition into adulthood including:

- ▶ a Personal Adviser who should keep in touch,
- ▶ a Pathway Plan laying out what their needs and goals are and how they will be supported to meet them,

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- ▶ assistance with employment, education, and training,
- ▶ help with living costs including leaving care grant,
- ▶ higher education bursary, and
- ▶ other assistance to the extent their welfare requires it.

After 21, if the young person wishes to receive support, the local authority has a duty to continue to provide advice and support to the young person, including a Personal Adviser and an updated Pathway Plan, at least until they turn 25.

Qualifying care leavers are also entitled to some ongoing support from their local authority between the ages of 18 and 21, and up to 25 if they are in education, but they are not entitled to a Personal Advisor, or a Pathway Plan. The exact details of their entitlements will be laid out in their local authority's leaving care policy which will be available on the local authority's website, please see the below as an example: https://brighton.proceduresonline.com/p_leaving_care.html#qualify

Both **former relevant children** and **qualifying care leavers** aged 18 to 20 who become homeless have **priority need** which means they should be offered stable and suitable accommodation when approaching housing services with a homelessness application. Homeless care leavers aged 21 to 24 will have **priority need** if they can show they are vulnerable as a result of having been in care, though the threshold to establish vulnerability is high. Personal Advisors should work with **former relevant children** to ensure they do not become homeless in the first place.

Young people 18 and over who should have been in care

Where a local authority failed to fulfil its duties towards a homeless 16- or 17-year-old, for example by not conducting a **child in need** assessment, the young person may be able to challenge the local authority even after they turn 18.

This could result in the young person being retrospectively given care leaver status along with some or all the entitlements which come with this status. A community care solicitor will be able to help with this legal challenge - more information on how to find a community care solicitor can be found in the section on where to seek further support and information.

Young people without care leaver status, i.e., those who were accommodated by housing services or under section 17 of the Children Act prior to their 18th birthday, are not automatically entitled to any support once they turn 18. Some local authorities may provide support in such cases, but it is not a legal requirement and will be dependent on local commissioning priorities.

If they become homeless after turning 18 the local authority may owe them a duty under Part VII of the Housing Act, however this will not be related to their circumstances prior to their 18th birthday. They will be assessed under the same requirements as any other adult who is presenting as homeless.

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Key messages

When a 16- or 17-year-old approaches their local authority as homeless, a **child in need** assessment should be completed even if they first approached housing services.

Children's services hold the primary duty to support homeless 16- and 17-year-olds. They must follow the process laid out in the joint guidance developed by MHCLG and DfE, which includes:

- ▶ conducting a **child in need** assessment,
- ▶ providing the young person with all the relevant information and,
- ▶ offering the young person independent advocacy.

The route the young person goes down has long term implications as it affects the support that they will be entitled to both before and after they turn 18.

Endnotes

- 5 Ministry of Housing, Communities & Local Government and Department for Education (2018) *Joint statutory guidance - Prevention of homelessness and provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation* <https://www.gov.uk/government/publications/provision-of-accommodation-for-16-and-17-year-olds-who-may-be-homeless-and-or-require-accommodation>
- 6 R (G) v Southwark [2009] UKHL 26
- 7 Department for Education (2017) *Care of unaccompanied migrant children and child victims of modern slavery: Statutory guidance for local authorities* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/656429/UASC_Statutory_Guidance_2017.pdf
- 8 Department for Education (2012) *Junior individual saving accounts for looked after children* <https://www.gov.uk/government/publications/junior-individual-saving-accounts-for-looked-after-children>

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Supporting 16- and 17-year-olds to approach their local authority

When a 16- or 17-year-old presents at a local authority as homeless this should trigger the process of completing a **child in need** assessment. This should be carried out by a social worker leading a multi-agency assessment, gathering information about the young person and their family, including the young person's wishes and feelings, analysing the needs of the young person (including the level of risk/harm they are exposed to), and deciding what support is needed from which agency.

This section provides practical advice to professionals working to support young people who are homeless.

Before approaching the local authority

Advocacy

In Homeless Link's 2020 Young and Homeless research [We have a Voice, Follow our Lead](#), young people highlighted both the need and importance of advocacy while they navigated complex systems such as social care, housing, health and welfare. The joint

It can be easier to refer a young person to an advocacy service which may have more capacity and experience in advocating for young people in complex situations. **At the point of contact, you should consider whether you are in the best position to advocate on behalf of the young person and discuss this with the young person themselves.**



Advocacy standards

National standards for the provision of Children's Advocacy Services were developed in 2002 and were still in use at the time of publication of this resource: https://webarchive.nationalarchives.gov.uk/20121103024003/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4018893.pdf.

In March 2020, the Department for Education announced that they would shortly consult on a new set of standards for youth advocacy. More information can be found here: www.article39.org.uk/advocates4u-campaign/.

guidance establishes that young people are entitled to an advocate who should be allowed to attend meetings with social services, whether face to face or digitally, and be included in every stage of the proceedings, if that is the young person's wishes:

'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 and understanding and navigating the housing system' [para 3.47].

An advocate represents the views, wishes, and needs of young people to decision-makers, and helps them to navigate the system.⁹ A young person can have an advocate of their choice, including any professional they have been working with, as long as they have relevant experience.

Children's services should provide information about access to advocacy services when they explain the assessment process to the young person [para. 3.46], but in practice many local authorities do not provide this. There is a list of organisations which may be able to provide advocacy or advice in the section on Where to seek further support and information.

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Information gathering

When you first speak to a 16- or 17-year-old who is homeless or at risk of homelessness, an accurate overview of their life and current situation should be established, or at least the young person should be given the opportunity to provide it. This should include identifying whether a young person has already presented as homeless to children's or housing services.

Young people may understandably feel uncomfortable about doing this – for example, due to trauma or feeling the subject is private. It is important to explain why you are asking for this information: **the reality is that the local authority will make thorough enquiries, so it is best to prepare them.**

It may be that the young person still does not wish to share this information with you, in which case you should provide information on what will likely happen when they present at the local authority. If the young person is happy to share information, it is best to:

- ▶ Identify relatives and close family friends and prepare the young person about the fact that council services may contact their wider support network and family to see if they can accommodate them and care for the young person. It is best to pre-empt this and obtain information about unsuitable placements (even with family and friends) early on so that council services can be informed of this.
- ▶ Establish whether anyone **must not** be informed about the young person's circumstances: this is usually relevant in domestic violence and abuse cases; in which case the local authority should not contact the perpetrator.¹⁰ Advocates may have to inform local authorities not to contact an abusive parent for example.

- ▶ It may also be helpful where possible to obtain evidence (in writing if available) from the young person and relevant support networks/family as to why the placement is unsuitable (e.g., why they are not able to accommodate or why they asked the young person to leave), including where relevant and possible a letter from the person who asked the young person to leave their previous home.
- ▶ Identify any other safeguarding issues and if a safeguarding referral is also necessary: where a safeguarding concern is disclosed, please follow your organisation's safeguarding process.

With the young person's consent, make a record of the information they are telling you, and collect any further evidence. The next step will be to support the young person to present at their local authority, and it will be important to have this information to hand, particularly information on who in the young person's life can and cannot be contacted.

Provide the young person with information regarding their rights and entitlements

It is important to inform the young person about their rights and entitlements so that they can understand their options and make an informed choice about what they would like to do. According to the joint guidance, the social worker assessing the young person should provide this information at the start of the assessment process [paras. 3.42 and 3.43]. Unfortunately, in some cases, social workers may try to persuade or encourage young people not to become looked after and instead should be accommodated under the Housing Act. To avoid this, the young person should be talked through their options in advance. See our myth busting table in Appendix B to prepare young people for gatekeeping scenarios.

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Talking young people through their options

You should provide the young person with age-appropriate materials to help them understand their rights (see the section on Facilitating informed decision-making and the entitlements table in Appendix A).

To start the conversation, you should try and explore with them what they want in the short and medium term. Do they want to go into higher education, to university or do an apprenticeship? Do they have a wider support network? It is important that the young person understands that support may be cut off when they turn 18 if they are accommodated by housing services.

You may have to ensure you manage the young person's expectations around timescales and the type of accommodation they will be offered. Even if everything goes smoothly, the entire process from presenting as homeless to being settled in permanent accommodation takes a long time. It is not uncommon for it to be delayed by a lack of available accommodation or for the first placement(s) offered not to be suitable. You should make sure to remind them that you will be working with them to ensure they are housed in suitable accommodation, however long it takes.

You should talk through the package of support young people can expect when they become looked after (and subsequently a care leaver) versus the support they would receive if they were housed by the housing department (under Part VII of the Housing Act) or as a **child in need** (under section 17 of the Children Act), both before and after they turn 18. You can use the entitlements table in Appendix A to facilitate this conversation.

Once the young person has been given information on their rights and entitlements, a conversation should take place to establish what they would like to do. This will determine which department they present to. If they have already presented as homeless to either children's services or housing services, this will help clarify what action needs to be taken next.

For young people who make an informed decision not to become looked after, the social worker or housing officer undertaking their assessment should be asked what further support beyond accommodation the young person is entitled to, both up to their 18th birthday and after they turn 18. This will depend on the local authority and may include support from a social worker, sessions with a keyworker, support with education or employment, payment of rent, and/or support with claiming benefits.

Key messages

- ▶ Consider whether you are in the best position to advocate on behalf of the young person and discuss this with the young person themselves.
- ▶ Make sure you understand young people's rights and the support they are entitled to and the respective duties of children's services and housing services.
- ▶ Gather information and evidence as relevant from the young person.
- ▶ Provide young people with information on their rights (see Appendix A) and discuss their options.

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Approaching local authorities' services

If the young person is homeless, they should present to their local authority's children's services or housing department urgently. Which department to present to will depend on the conversation had with the young person regarding their rights and entitlements. It should be noted however that homeless 16- or 17-year-olds may not have the final say on what provision they will be housed under, and a **child in need** assessment will need to be conducted.

Often you will have to wait some time before being seen in either department. It is worth taking water and snacks with you, and potentially something for you and the young person to pass the time such as a book, a pack of cards, etc.

Presenting at children's services

You can find out where children's services are located via the local authority website. If possible, email the duty social worker before heading there informing them when you will be arriving.

When you arrive, explain that you are **presenting as homeless with a child who requires accommodation and support under section 20 of the Children's Act**. Often when a young person presents as homeless to children's services, they may have to wait a while before they are seen but they should eventually be seen by the duty social worker.

The duty social worker will talk to the young person about their situation in more detail. They will probably ask why they have nowhere to stay, how long it has been going on, and where the young person has been staying up to that point. As suggested above, it is helpful to have discussed these things with the young person in advance.

It is likely that the social worker will try to ascertain if there is anyone in the young person's support network that they can stay with, for example, a family member. The social worker should

Covid-19

During the Covid-19 pandemic, most local authorities have only been taking referrals over the phone or online. This can make it slower to get a response from council services, even when it is an urgent matter.

You should try to call or email as soon and as early in the day as possible. If unable to get in touch with council services in an urgent situation, you should investigate with the young person whether they have any options to stay with family or friends.

If no one in the young person's network can take them in for the night, you should be able to raise a safeguarding concern as the young person will be at risk of rough sleeping that night. Most local authorities will have an out-of-hours contact number which you can find on their website.

If all else fails, you should seek legal advice as a lawyer would be able to escalate the issue with a 'pre-action letter'. Information on finding a solicitor who can help can be found in the section on Where to seek further support and information.

be thinking about how safe it would be for the young person to do this and they should also be taking into account the young person's wishes and feelings. This is when it should be flagged if there is anyone who should not be contacted, usually in domestic violence cases.

The duty social worker will probably ask for phone numbers of people that the young person knows or has stayed with (e.g., parents, relatives, friends, etc.) and will probably want to immediately call them to see if the young person can stay with them. This can sometimes take a while.

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Sometimes the social worker will say that they have found someone for the young person to stay with (e.g., a parent has agreed to take the young person back, or a cousin has said they can stay for a couple of nights). **This accommodation needs to be safe for the young person.**

In some cases, the social worker will offer mediation to try and repair the relationship between the young person and the person they were living with. **Even if mediation is offered and accepted, the young person should not be made to return home if it is not a safe environment.**



It can be useful to have gathered in advance any evidence of why returning home is not safe, such as a letter from the parent saying they are not welcome to stay, any accounts from the young person of previous abuse, copies of abusive messages, any previous reports to social services or police, etc. If the social worker insists regardless, you should consider making a safeguarding referral and/or seeking legal advice.

If there is nowhere safe for the young person to stay that night, the duty social worker should arrange a suitable emergency placement for the next few nights [para. 3.4]. The placement can range from a foster carer placement, supported accommodation or a hostel, etc. The social worker should be listening to the young person's wishes and feelings about what kind of placement they would like to go to. An advocate can help with this discussion. If the young person is accommodated continuously for more than 24 hours, they become a **looked-after child**.

Children's services should also provide the young person with enough money to live on and fulfil their needs for the next few days until they next meet with them.

Wherever a young person first presented, to housing services or children's services, a **child in need** assessment will need to be completed by a social worker to determine what duties are owed to the young person [para. 3.2]. This will involve gathering information on the young person's circumstances, liaising with them, their family and other professionals and taking a holistic view to determine the young person's needs.

Throughout the process, you may need to make sure the young person is properly included by the social worker as assessments should be child-centred [para. 3.21]. The social worker should keep the young person in the loop throughout the assessment, including sharing documents, inviting them to relevant meetings and listening to the young person's wishes, including on how much they want to be involved.



Presenting at housing services

If possible, check the local authority's website to figure out exactly where housing services are located – they are sometimes called housing options, housing needs, or homelessness services.

When you arrive at the housing department, you should try to speak to a housing officer as soon as possible about the young person's situation. Be sure to highlight if the young person does not have anywhere safe to stay that night as they will have a duty to provide emergency accommodation. Housing services do not provide financial support so if the young person chooses to go down the housing route, they will need to find employment or claim benefits to support themselves.

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Documents

You should also check to see what documents the young person is likely to be asked for. Generally, the young person should try to take the following with them:

- ✔ **Identification:** birth certificate or passport, this may include proof of immigration status.
- ✔ **Proof of income:** if the young person is working, they should bring payslips, or if they receive benefits, they should bring evidence of this.
- ✔ **Letter:** Ideally, they should bring a letter from the person who asked them to leave their previous accommodation.

Children’s services have a duty to help the young person if they are a homeless child. If they say they cannot help, tell them to come back another day, or give any of the responses in our myth busting table (Appendix B), **that is a form of gatekeeping and is unlawful.**



Gatekeeping and seeking legal assistance

Children’s services sometimes immediately accept their duty to accommodate homeless 16- and 17-year-olds and offer support on the day. However, it is not uncommon for young people to be refused support when they first present to the local authority, whether this is to children’s services or housing services.

In such circumstances, you should talk to the young person about seeking legal advice from a community care solicitor. The role of the solicitor will often be to send the local authority a ‘pre-action letter’ or ‘letter before action’, threatening legal action called “judicial review” if they do not accept their duty to support and accommodate the child.

If a young person is open to seeking legal advice, they should bring ID, proof of any benefits or income, and their last three bank statements, as these documents are likely to be required for legal aid applications. Information on finding a community care solicitor can be found in the section on Where to seek further support and information.

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Tips for working with local authorities:

No matter which department you are presenting at with the young person you should:

- ▶ Make sure that the local authority is aware that you are the young person's advocate (if this is the case) and that the young person wishes for you to be included in the proceedings by being copied in communications, receiving all documentation and being invited to meetings.
- ▶ Try and ensure that a trauma-informed approach is taken by all the professionals involved, which includes minimising how often the young person has to recount their story and possibly relive their trauma. We discuss trauma informed approaches in the section on Facilitating informed decision making.
- ▶ Prepare the young person, let them know the process may take time and make sure to bring food and water. If possible and safe gather relevant documents such as ID, and give the young person information about what the process of presenting will involve.
- ▶ Get everything confirmed in writing. It may be that you will have to argue for the young person to be provided with the support they are entitled to and may have to resort to involving a solicitor. If and when you get to that stage, it will be useful to have written evidence that shows the local authority was made aware of the young person's support needs, and that help was refused. This should include copies of correspondence, transcripts (written notes) of phone and in-person conversations and documentation provided. If the local authority verbally agrees to house the young person under section 20, try and get that confirmed in writing as soon as possible.

Endnotes

- 9 Department of Health (2002) *National Standards for the Provision of Children's Advocacy Services* https://webarchive.nationalarchives.gov.uk/20121103024003/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4018893.pdf
- 10 Para. 21.21, Ministry of Housing, Communities and Local Government (2018) *Homelessness Code of Guidance for Local Authorities* https://assets.publishing.service.gov.uk/media/5ef9d8613a6f4023cf12fc67/Current_Homelessness_Code_of_Guidance.pdf

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Accommodation options

Types of accommodation where young people can be housed

The type of accommodation will depend on the route the young person decides to take. If they want to be accommodated by housing services, they are likely to be placed in supported accommodation. If they want to be accommodated by children's services, the type of placement will depend on the assessment of the young person's needs conducted by the social worker.

✓ Residential children's homes

A placement in a children's home is an option for a 16 or 17-year-old who becomes looked after, although this is not common. Children's homes are regulated by Ofsted and provide a higher level of care than supported accommodation. Young people can only be placed in this form of accommodation by children's services.

✓ Foster care

For 16- and 17-year-olds who become looked after, foster care should be discussed as one of the options where they can be housed.

✓ Semi-independent or independent placements or supported accommodation

These are the most common destinations for young people aged 16 or 17 and include supported living, hostels, and foyers. These settings are not regulated, meaning that they do not have to meet minimum standards set in law and are not inspected by Ofsted. The support available to the young person varies according to the setting and it is essential that young

Regulating independent and semi-independent placements for children in care

Following a [consultation on unregulated provision for children in care and care leavers](#), the Government has decided to ban the placement of **looked-after children** aged under 16 in such settings from September 2021.

At time of writing, minimum standards for independent and semi-independent accommodation housing **looked-after children** and care leavers aged 16 and 17 were being considered by the Government. The draft standards will be consulted on in 2021.

people are placed in a setting which provides an appropriate level of support for their needs. Both housing and children's services can place young people aged 16-17 into these types of placements. Local authorities may commission out provision of supported accommodation to private or voluntary sector organisations.

Types of accommodation where young people cannot be housed

✗ B&Bs

The joint guidance clearly states that B&Bs, including hotels and nightly let accommodation with shared facilities, are not considered suitable for any 16- or 17-year-old [para. 5.10].

✗ Temporary accommodation

The joint guidance states that it is not usually appropriate to house a 16- and 17-year-old in temporary accommodation without on-site support [para. 5.13].

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✕ All-ages night shelter

16- and 17-year-olds must not be placed in all-ages night shelter, even in an emergency [para. 5.12].

In an **emergency**, the joint guidance states that the following types of accommodation are appropriate until more suitable emergency accommodation can be secured for the duration of the assessment [para. 5.11]:

- ▶ Nightstop type or short-term supported lodgings in the homes of trained and vetted hosts,
- ▶ emergency beds in specialist young peoples' supported accommodation services,
- ▶ other specifically designed crash pad services with on-site support and,
- ▶ for **looked-after children**, emergency foster placements

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Facilitating informed decision making

Above we have outlined the different stages involved in supporting 16- and 17-year-olds to access local authority housing support if they are faced with homelessness. This process can be challenging for young people who have often faced multiples adversities by the time they reach the stage of being homeless. In Homeless Link's 2020 Young and Homeless research [We have a Voice, Follow our Lead](#), young people valued organisations that were empowering and encouraged participation, where their experiences of adversity were recognised, and where they were provided with responsive and tailored support. Stories highlighted the importance of services being able to listen and interpret young people's needs.¹¹ This section provides advice on how to support, safeguard and empower young people through centring a trauma-informed approach.

Impact of trauma

16- and 17-year-olds faced with homelessness have often faced multiple traumatic experiences. This may include a single traumatic event, e.g., the loss of their home, or it may involve ongoing complex trauma. It can include early and ongoing experiences of physical and emotional abuse, neglect, familial rejection, and breakdown, loss, or death of a loved one, domestic violence, gang-related violence and/or exploitation, serious injury, fleeing their country of origin, surviving a natural disaster, surviving terrorism, etc. Experiences of prejudice are often part of, and intersect with, these traumatic experiences. For example, akt, an LGBTQ+ youth homelessness charity, found that LGBTQ+ young people who become homeless frequently experience sexual

abuse, bullying, and neglect from their family because of their sexuality and/or gender identity.¹² Further information on the impact of experiences of adversity and trauma can be found in our section on Where to seek further support and information.

Traumatic experiences violate people's boundaries and can influence brain development, the way we see ourselves and the way we attach and relate to the world and others around us. This can play out in behaviour and belief systems for example people may feel:

- ▶ Fear and a constant state of alert,
- ▶ A sense of helplessness and powerlessness,
- ▶ Shame and/or a sense that they are a bad person,
- ▶ A lack of trust in others and services,
- ▶ Difficulty managing emotions.

Young people may not trust services and individuals who represent systems associated with their trauma, who therefore represent or are associated with a lack of safety and control. They may want to distance themselves from and disengage with support available. Professionals should recognise that this is a protective response, and how it may impact their decision making when it comes to navigating their housing and support options.

A trauma-informed approach recognises young people's behaviour - often labelled as disengaged, challenging, disruptive or aggressive - as normal coping mechanisms that have been developed to respond to and keep them safe in abnormal situations.¹³



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Building a trusting relationship

Building a safe physical and social environment and safe relationships will provide young people with space to explore their housing options and make informed decisions. Young people have highlighted the importance of sustaining and trusting relationships with staff in homelessness settings as a significant factor impacting their self-confidence, and sense of control in their lives.¹⁴

Getting to know the young person beyond their issues and needs is important while supporting them through homelessness, in order to increase opportunities of understanding and trust, and support and develop their self-esteem and resilience. Your relationship with the young person should be respectful, honest, non-judgmental and have clear and appropriate boundaries.

It is important to be consistent and dependable, while only making promises that can be kept and are within the remit of your work. Setting clear boundaries supports people to understand what they can expect from your service, as well as other services, and helps to build trust.

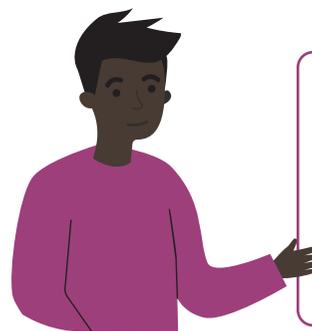
When working with a young person, you should stay alert to their personal circumstances and **immediately report any safeguarding concerns in line with your organisation's safeguarding policy.**



You should be upfront with a young person about what your duties to raise safeguarding concerns are, and what this means for them. It may be useful to conduct a safety assessment with the young person to help inform your work with them, support transparency, and monitor any impact on the options available to them.

Managing and providing information

Young people in homelessness services consistently raise that they did not have access to the right information when they became homeless.^{15,16} Young people must be informed of their rights to facilitate informed decision-making. It is, however, important to get the right level of information so young people are not overwhelmed. Exploring and understanding young people's wishes and needs should be prioritised. Validating feelings and emotions and providing empathetic and non-judgemental support can support engagement with young people who have experienced trauma.



It is important that **young people are provided with information that is relevant, accessible, in a language they understand, and that is free from jargon.**

Traumatic experiences can affect memory, and other cognitive processes, such as focusing attention, planning, and problem solving. This means some young people may face challenges in processing, understanding, and retaining information: information may need to be provided and revisited at different points and presented in different formats, such as posters, film, brochures, case studies, internet accessible links, youth friendly documentation and visuals. If you are concerned a young person has not taken in what you have said, it is better to ask them to repeat and summarise what you have said, rather than asking them if they understood.

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Providing age-appropriate support

Professionals should recognise that 16- and 17-year-olds will have limited experiences where they have been offered choice and control, for example, the young person or child's consent is not usually needed to initiate safeguarding responses. In addition, young people will have often left homes where they were somewhat dependent on an adult. Any choices they have had, may have been dictated by threats to their own or others' safety.

The decision to be housed by children's services or housing services may be one of the first significant choices they have had about their own care.



To build up to this, it may be useful to, where appropriate, start delegating responsibilities or tasks to the young person to help develop a sense of shared responsibility and trust.

It is important to note that while you may disagree with a young person's decision, you should not undermine them or act in a way that reduces a young person's control, as this can be disempowering and re-traumatising. Where a trusting relationship has been built with a young person, there may be space to explore the reasons and emotions behind their decision, if this is appropriate. If a young person who has been fully informed of their options and their consequences decides not to become looked after and instead to accept accommodation under the Housing Act, their decision should be respected.

If you are concerned that the young person may lack capacity to make a decision, for example because they have a health condition that impacts their ability to make a decision, it may be worth considering whether they should be assessed under the Mental Capacity Act 2005. You can find more information and guidance on the Mental Capacity Act section on **Where to seek further support and information**.

Making your services accessible

Some young people will have specific circumstances making engaging with you and your services more challenging. The young person may not always feel comfortable or think to disclose these circumstances outright. You should try and identify whether that is the case and if so, take steps to facilitate the young person's engagement with your services.

For example, the young person may need additional support or certain accommodations if they have caring responsibilities or are a young parent, if their immigration status is uncertain, if they do not speak English well or at all, if they are disabled, or if there are any safeguarding concerns or history which may, for example, prohibit them going to certain areas or mixing with people from those areas.

On a practical side, there may be financial barriers that would affect remote contact or prevent travel and in-person attendance to the local authority. Particularly during the Covid-19 pandemic, it has been important to ensure young people have digital access to online meetings – if possible, through the provision of smartphones and / or laptops and internet access. It is also important to consider digital skill and literacy and ensure young people are confident in using technology and online platforms.

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Key messages

Build a trusting relationship through:

- ▶ Exploring issues, needs and priorities of the young person
- ▶ Creating or identifying spaces that are safe, appropriate, and comfortable for both the worker and the young person.
- ▶ Engaging in active listening and respecting the young person's right to privacy.
- ▶ Ensuring the young person is aware of relationship boundaries and your role and responsibilities in relation to their care, safety, and well-being, including when it comes to safeguarding and reporting.

Empower the young person through:

- ▶ Providing information that is accessible
- ▶ Supporting the young person to make decisions recognising this may be one of the first significant decisions they've had to make
- ▶ Respecting a young person's right to choose
- ▶ Providing accessible services

It is important to be aware of and not exceed your own level of skill and expertise when dealing with matters of a sensitive, personal, or emotional nature with a young person, as well as being fully aware of your safeguarding responsibilities and organisational processes.

Endnotes

- 11 Homeless Link (2020) *We Have A Voice, Follow our Lead* www.homeless.org.uk/sites/default/files/site-attachments/Young%20and%20Homeless%202020.pdf
- 12 akt (2021) *The LGBTQ+ youth homelessness report* www.akt.org.uk/Handlers/Download.ashx?IDMF=59ea91c-ee80-4b6b-8ecb-158edfeeaccd
- 13 Council to Homeless Persons (2019) *Engaging young people experiencing homelessness* www.homeless.org.uk/sites/default/files/site-attachments/CHP%20Engaging%20Young%20People%20Experiencing%20Homelessness%20toolkit.pdf
- 14 Homeless Link (2020) *We Have A Voice, Follow our Lead* www.homeless.org.uk/sites/default/files/site-attachments/Young%20and%20Homeless%202020.pdf
- 15 Homeless Link (2020) *We Have A Voice, Follow our Lead* www.homeless.org.uk/sites/default/files/site-attachments/Young%20and%20Homeless%202020.pdf
- 16 Youth Voice (2019) *Youth Homeless Parliament Report* <https://stbasils.org.uk/wp-content/uploads/2020/02/YHP-Final-2019-PDF.pdf>

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Supporting young people with additional accommodation needs

Young people leaving prison who have been in care

Youth offending teams, children's services and, when appropriate, housing services should work together to ensure young people who may be at risk of homelessness on release are identified and accommodation is arranged if needed [paras. 3.54 and 3.55].

If the young person was looked-after when they entered custody, and/or if they became looked-after by being remanded in custody, for a total of 13 weeks or more, children's services will have a duty to accommodate them on release [para. 3.56]. They will still be entitled to a **child in need** assessment and if they need housing either be accommodated under section 20 of the Children Act or referred to housing services, depending on the outcomes of the assessment [para. 3.57].

St Basils has developed the [Youth Justice Accommodation Pathway](#) which is a toolkit for local authorities and professionals to plan accommodation and support services for young people aged 16 – 25 who have been involved with the criminal justice system.



16- and 17-year-olds with their own children or a partner/relative aged over 18

Having children or a partner aged over 18 with whom they want to live does not prevent the young person from becoming a **looked-after child** under section 20 if a duty is owed and that is what the young person wishes ([para. 2.6]. When a young person who has a child is accommodated under section 20, their child does not automatically become looked after too [para. 2.7].

When the young person has an older sibling who is over 18, it will be important to talk to them both individually to discuss their individual and shared options. If they wish to live together, it can be useful to loop in both young people with a **solicitor** who specialises in community care (children's social care) with knowledge of housing to advise them of their rights.

16- and 17-year-olds who have left care

Young people can leave care from age 16 (though 18 is more common). After leaving care, if they have been looked after for 13 weeks in total and unless they went back to live at home, they will become a **relevant child** until they turn 18. This entitles them to ongoing support up to age 25 from the local authority's leaving care team, as a **former relevant child**.

If a **relevant child** becomes homeless, this will be dealt with by children's services as they will still have a duty to ensure they have suitable accommodation.¹⁷

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Non-UK nationals and young people with uncertain or insecure immigration status

All young people under 18 have a right to support from children's services as described in this resource, regardless of their nationality or immigration status - this includes all Unaccompanied Asylum Seeking Children or **separated children**. If they originally approached housing services, they should immediately be referred to children's services [para. 4.5].

Young people who receive housing under section 20 and become looked-after should be supported by their social worker to secure their immigration status well before they turn 18.¹⁸ This may include getting legal advice from an immigration solicitor. It is crucial that this is part of the young person's Pathway Planning from the earliest stage as access to secure status will have a big impact on their life, including whether they may be entitled to leaving care support after they turn 18.

Now that the UK has left the EU, EU nationals need to apply for settled or pre-settled status under the EU Settlement Scheme by 30 June 2021. Social workers should also help with this. Further information and support on the rights of Unaccompanied Asylum Seeking Children can be found on Coram Children's Legal Centre's website: <https://www.childrenslegalcentre.com/resources/>.



Endnotes

- 17 Coram Voice (2020) *Sorted and supported: A guide to care leavers rights and entitlements* <https://coramvoice.org.uk/wp-content/uploads/2020/10/1870-CV-SortedSupported-Guide-new2.pdf>
- 18 Department for Education (2015) *Statutory guidance - Children Act 1989 Volume 3: transition to adulthood for care leavers* <https://www.gov.uk/government/publications/children-act-1989-transition-to-adulthood-for-care-leavers>

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Where to seek further support and information

Just for Kids Law's youth advocacy and legal teams work with children and young people between the ages of 10 and 25 across London. To refer a young person or make a self-referral to our advocacy and legal services, call 0203 174 2279 or fill in the online form at <https://justforkidslaw.org/referral>.

Advocacy and advice services

Coram Voice Always Heard

Coram Voice Always Heard is a national advocacy helpline which can refer young people to their local advocacy service or provide advocacy services themselves when needed: visit <https://coramvoice.org.uk/get-help/alwaysheard/> or call 0808 800 5792.

Coram Voice also provides an online tool to find your local advocacy service: <https://coramvoice.org.uk/get-help/find-your-local-service/advocacy/>.

Children's Commissioner's Help at Hand helpline

Children's Commissioner's Help at Hand helpline can provide advice and support for children in care, leaving care, living away from home, or working with children's services: visit <https://www.childrenscommissioner.gov.uk/help-at-hand/> or call 0800 528 0731.

National Youth Advocacy Service (NYAS)

National Youth Advocacy Service (NYAS) provides advocacy services to young people: visit <https://www.nyas.net/referrals/> or call 0808 808 1001.

Howard League

Howard League provides an advice line for children and young people in custody: visit <https://howardleague.org/legal-work/advice-line/> for more information or call 0808 801 0308.

Solicitors

Your local advocacy services will be able to refer you to local solicitors specialised in community care and housing.

You may also find solicitors in the below databases:

The Law Society's database

<https://solicitors.lawsociety.org.uk/>.

The Community Care Law for Children and Young People Network

<https://cccyplaw.org.uk/providers>.

The Southwark Law Centre

The Southwark Law Centre hosts several thematic groups of lawyers, including focused on Housing, Homelessness and Immigration: http://www.southwarklawcentre.org.uk/index.php?option=com_content&view=article&id=67&Itemid=74.

The Legal Aid Agency

The Legal Aid Agency has a 'Find a legal aid adviser or family mediator' service: <https://find-legal-advice.justice.gov.uk/>.

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Key legislation and statutory guidance

Children Act 1989

<https://www.legislation.gov.uk/ukpga/1989/41/contents>

Housing Act 1996

<https://www.legislation.gov.uk/ukpga/1996/52/contents>

Ministry of Housing, Communities & Local Government and Department for Education (2018) *Joint statutory guidance - Prevention of homelessness and provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation* <https://www.gov.uk/government/publications/provision-of-accommodation-for-16-and-17-year-olds-who-may-be-homeless-and-or-require-accommodation>

Other statutory guidance

Department for Education (2018) *Statutory guidance - Working Together to Safeguard Children A guide to inter-agency working to safeguard and promote the welfare of children* <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

Department for Education (2015) *Statutory guidance - Children Act 1989 guidance and regulations Volume 2: care planning, placement and case review* <https://www.gov.uk/government/publications/children-act-1989-care-planning-placement-and-case-review>

Department for Education (2015) *Statutory guidance - Children Act 1989 Volume 3: transition to adulthood for care leavers* <https://www.gov.uk/government/publications/children-act-1989-transition-to-adulthood-for-care-leavers>

Department for Education (2010) *The Children Act 1989 Guidance and Regulations: Local authority responsibilities towards former looked after children in custody* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/288512/Former_looked_after_children_in_custody.pdf

Department for Education (2017) *Care of unaccompanied migrant children and child victims of modern slavery: Statutory guidance for local authorities* https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/656429/UASC_Statutory_Guidance_2017.pdf

Ministry of Housing, Communities & Local Government (2018) *Homelessness code of guidance for local authorities* <https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities>

Voluntary and community sector guidance

Coram Voice (2020) *Sorted and supported: A guide to care leavers rights and entitlements* <https://coramvoice.org.uk/wp-content/uploads/2020/10/1870-CV-SortedSupported-Guide-new2.pdf>

Coram Children's Legal Centre (2017) *Local authority support for unaccompanied asylum-seeking children* <https://www.childrenslegalcentre.com/resources/local-authority-support-uasc/>

Homeless Link (2018) *Using the Mental Capacity Act: Guidance for homelessness services* <https://www.homeless.org.uk/sites/default/files/site-attachments/Using%20the%20Mental%20Capacity%20Act%202018.pdf>

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St Basils (2019) *Positive Pathway Framework Preventing Youth Homelessness and Promoting Positive Transitions* https://stbasils.org.uk/wp-content/uploads/2020/01/Final-framework1_PositivePathway_A4.pdf

St Basils (2019) *Youth Justice Accommodation Pathway* https://stbasils.org.uk/wp-content/uploads/2020/01/Finalframework3_YouthJustice.pdf

Young Minds (2019) *Adversity and trauma informed practice guide for professionals* <https://youngminds.org.uk/media/3091/adversity-and-trauma-informed-practice-guide-for-professionals.pdf>

Become provides factsheets and information for looked-after young people and care leavers: www.becomecharity.org.uk/for-young-people/.

Shelter's website holds a wealth of information for people faced with homelessness: https://england.shelter.org.uk/housing_advice/homelessness.

Shelter Legal contains more detailed information aimed at professionals supporting them: https://england.shelter.org.uk/legal/homelessness_applications.

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Appendix A: Entitlements under each route

What you will be entitled to, before and after you turn 18, according to which option you choose		
When housed under section 20 of the Children Act	When housed under section 17 of the Children Act	When housed under Part VII of the Housing Act
<p>After 24 hours, you will become a looked-after child. You will be given a social worker and all of your needs will be taken care of by the local authority.</p> <p>Before you turn 18, your social worker will work with you to plan what support you will need to achieve your long-term goals once you turn 18.</p>	<p>You will be a child in need and therefore should continue to receive the support children’s services will have decided you need based on their assessment of your needs and will have a social worker assigned to you to make sure that your needs are met.</p> <p>However, you will not be entitled to any Pathway Planning or leaving care support to assist you to transition into adulthood.</p>	<p>You will be legally entitled to minimal support, though some local authorities may offer support packages in these circumstances.</p> <p>There is no requirement for the you to have a social worker, or a Pathway Plan or equivalent.</p>
Your accommodation is paid for by children’s services until you turn 18.	Your accommodation should be paid for by children’s services until you turn 18.	You will be responsible for working and/ or claiming benefits and paying for your accommodation and all other expenses.
You should receive subsistence / pocket money or special allowances for birthdays and other occasions.	Any subsistence/pocket money or special allowances for birthdays and other occasions would at the discretion of social services.	No pocket money/ subsistence and no special allowances for birthdays or other occasions.
You will be entitled to get advocacy support for any complaints and representation.	You will be able to get advocacy support for any complaints and representation.	There is no entitlement to advocacy support. However, you would be able to get advocacy support for any complaints and representation.
Information on how to find an advocacy service is included in the section on Where to seek further support and information		

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<p>If your placement breaks down, children’s services must find you a new placement.</p>	<p>If you are housed under section 17 and your placement breaks down, children’s services will find you a new placement.</p>	<p>If you are accommodated under the Housing Act and become at risk of eviction, depending on why you might be viewed as intentionally homeless and so no longer eligible for further housing support from housing services.</p>
<p>When you leave care at 18 and until you turn 21, you will automatically have priority need if you become homeless, meaning you will be much more likely to get help.</p> <p>Between 21 and 24, care leavers may have priority need if they can show that they are vulnerable as a result of having been in care.</p>	<p>Once you turn 18, you will not be a care leaver and will not automatically have priority need on those grounds.</p>	<p>Once you turn 18, you will not automatically have priority need on grounds of care experience.</p>
<p>Depending on how long you were housed as a looked-after child, you will either be a former relevant child or a qualifying care leaver. Each category is entitled to slightly different levels of support after they turn 18.</p> <p>A young person who was in care for at least 13 weeks and was still in care when they turned 18 is a former relevant child. They are also known as care leavers.</p> <p>They will continue to receive support until the age of 25, including support to pursue higher education.</p> <p>Before they turn 18, the young person is entitled to having their long-term needs assessed (a Pathway Plan needs assessment) to set out the advice, assistance and support social services will provide them to transition into independence. This includes helping with</p>	<p>After you turn 18, you will not legally be entitled to any support, including with pursuing higher-education, though some local authorities may offer support packages in these circumstances.</p>	<p>After you turn 18, you will not legally be entitled to any support, including with pursuing higher-education, though some local authorities may offer support packages in these circumstances.</p>

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education, career planning, employment, accommodation, financial needs, and planning, employment, accommodation, financial needs, and any other support needs and leaving care provision, up to the age of 21. They will have a Personal Adviser who should keep in touch, provide the support agreed on in their Pathway Plan and any other support they need.

Once they turn 21, **former relevant children** are still entitled to a Personal Adviser and advice and support until they turn 25 if they request it.

A young person who was still in care when they turn 18 but was not in care for at least 13 weeks in total is known as a **qualifying care leaver**. They are still entitled to advice and assistance from children's services until the age of 21, including sometimes financial assistance. If they are in higher education, they can receive help with their living expenses and with having a place to live during school holidays until the age of 25.

This table was taken from a 2015 report published by the Children's Society¹⁹ and adapted.

19 Pona, I., and Crellin, R. (2015) *Getting the house in order: Keeping homeless older teenagers safe* The Children's Society https://www.basw.co.uk/system/files/resources/basw_12322-2_1.pdf

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Appendix B: Myth Busting

When approaching children's or housing services

✗ What a young person may be told The truth ✓

✗ "You need to have parents' permission in order to be accommodated by the council."

✓ This is not correct. 16- and 17-year-olds can consent to being accommodated under section 20 without their parents' permission.

✗ "You need to go to another local authority to ask for help." (for example, the area where their parents live or where they last lived)

✓ The joint guidance is clear that the children's services to which the young person is presenting should offer immediate assistance. They will also conduct an assessment to establish whether the young person can return to their area of origin, but this assessment and any ensuing disagreements regarding responsibility for the young person cannot get in the way of providing them with the support they immediately need [paras. 3.51 to 3.53].

✗ When the young person has left an unsafe situation: "You need to go home and make up with your parents."

✓ Local authorities will attempt to resolve the issues which led young people to be homeless, but they should never put them at risk or force them to go back to a home where they are unsafe.

✓ Mediation is sometimes offered as a condition for the young person to return home - this is only appropriate if the young person would not be at risk of harm upon returning home. It will be important to ensure that mediation and any other support promised by the local authority for the return of the young person is actually put in place promptly.

✗ Housing services can refer young people to another authority, but they have to consult with children's services first [para. 4.31].

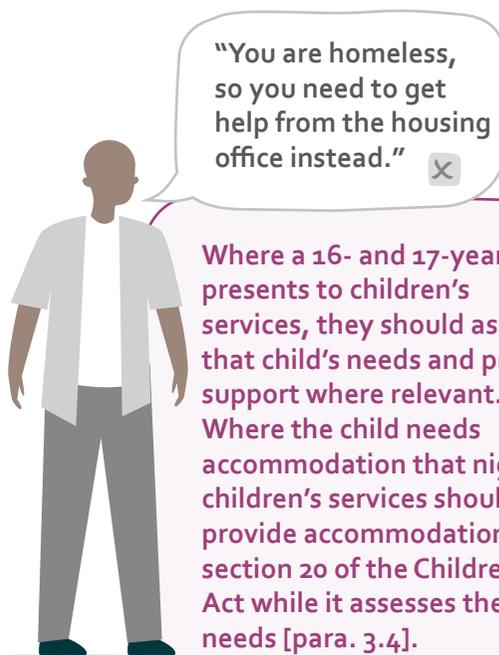
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When approaching children's services



"You are homeless, so you need to get help from the housing office instead." ❌

Where a 16- and 17-year-old presents to children's services, they should assess that child's needs and provide support where relevant. Where the child needs accommodation that night, children's services should provide accommodation under section 20 of the Children Act while it assesses the child's needs [para. 3.4].

In accordance with the Southwark judgment, the norm for accommodating a homeless 16- and 17-year-old should be children's services. The judgment is widely known and therefore it can be referenced where necessary if children's services are trying to avoid accommodating the young person themselves and referring the 16- and 17-year-old to housing services instead. ✅



As a reason for delaying providing support to the young person

"We are still drawing up the 'section 20 agreement'." ❌

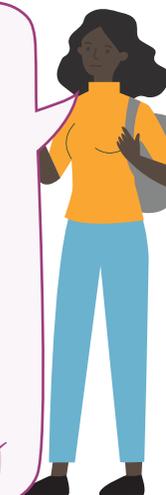
The joint guidance is clear that children's services must provide support to the child immediately, especially if the child does not have anywhere safe to stay [paras. 3.4 and 3.5]. ✅

Section 20 agreements are usually a record of parents' consent for this support to be given, which is mandatory when the child is under 16. As stated above, 16- and 17-year-olds can consent to being accommodated under section 20 without their parents' permission, therefore a section 20 agreement would not be necessary.



"If you choose to go down the looked-after child route, then you are unlikely to get social housing." ❌

This is untrue. Being looked after by the council does not prevent the young person from receiving social housing in the future. Allocation policies for social housing vary from local authority to local authority, some but not all will give additional priority to young people in care. Having been in care would not make someone ineligible for social housing. ✅

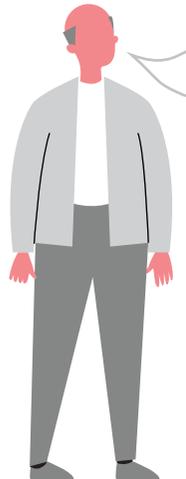


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When approaching children's services



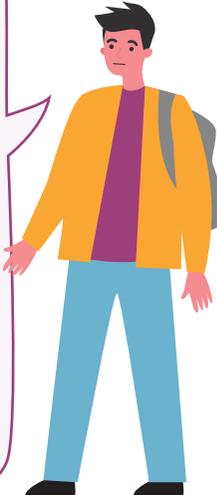
“The only support you need is accommodation, so you are not entitled to section 20 support.” ✘

“You are resourceful / autonomous / able to live independently so you do not need to be looked after.”

This is not correct. However resourceful or independent, the young person is still entitled to being looked-after if they meet the criteria and that is what they want.

It would also not be appropriate for children’s services to house the young person under section 17 of the Children Act – the joint guidance is clear that section 17 cannot be used as a substitute to section 20.

The only reason not to provide section 20 support is if the young person does not meet the criteria for support or if they refuse it. ✔




“Section 20 accommodation is not available for you as you are 17 and a half years old.” ✘

Any young person under 18 is eligible to be housed under section 20, it does not matter how close they are to turning 18 [para. 3.1]. ✔

Even if they are only housed under section 20 for a week before turning 18, it is still advantageous for them as they will become qualifying care leavers upon turning 18 and benefit from the entitlements which come with this status.

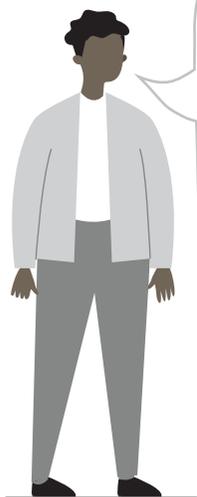


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When approaching children's services



To persuade a young person to refuse section 20 support: ✕

"If you choose to be accommodated by children's services, we can only provide you with a foster care placement."

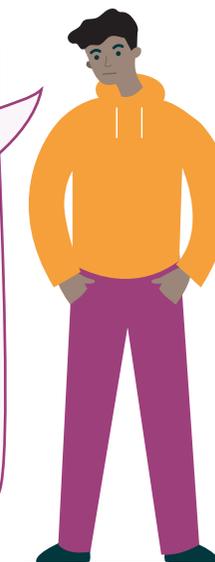
"Would you like to be in foster care or be independent?"

"If you become looked after this will involve frequent visits from social workers."

This is not necessarily true. There are various accommodation options available to children's services as set out above. The young person can express their wishes and feelings regarding the type of accommodation they would like to be accommodated in and this should be considered.

In reality, looked-after children should have the same choice of accommodation as those placed under the Housing Act, including semi-independent placements.

The law only requires children to be visited every six weeks. This is a part of the duties owed to looked-after children to ensure their needs are met and should not be seen as negative. ✓



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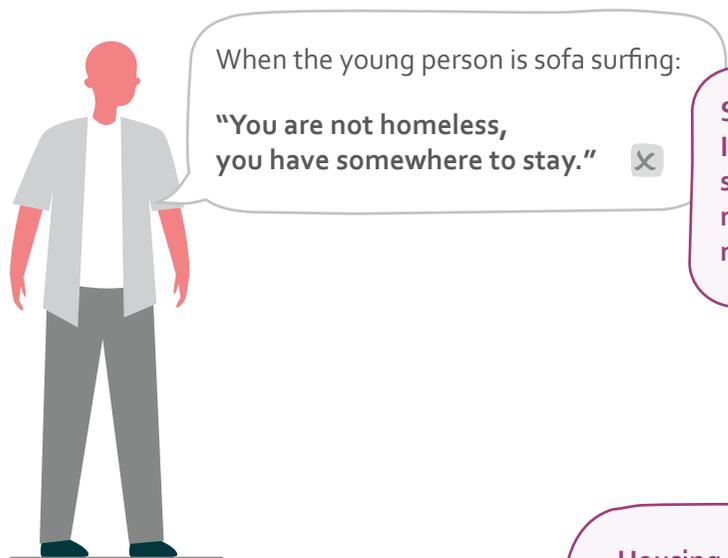
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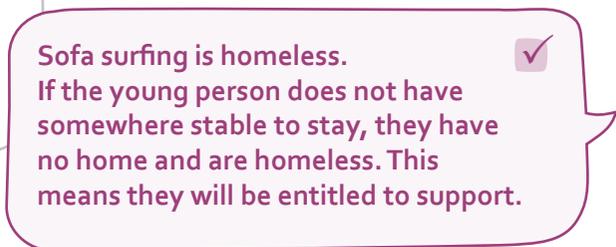
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When talking to housing services:



When the young person is sofa surfing:

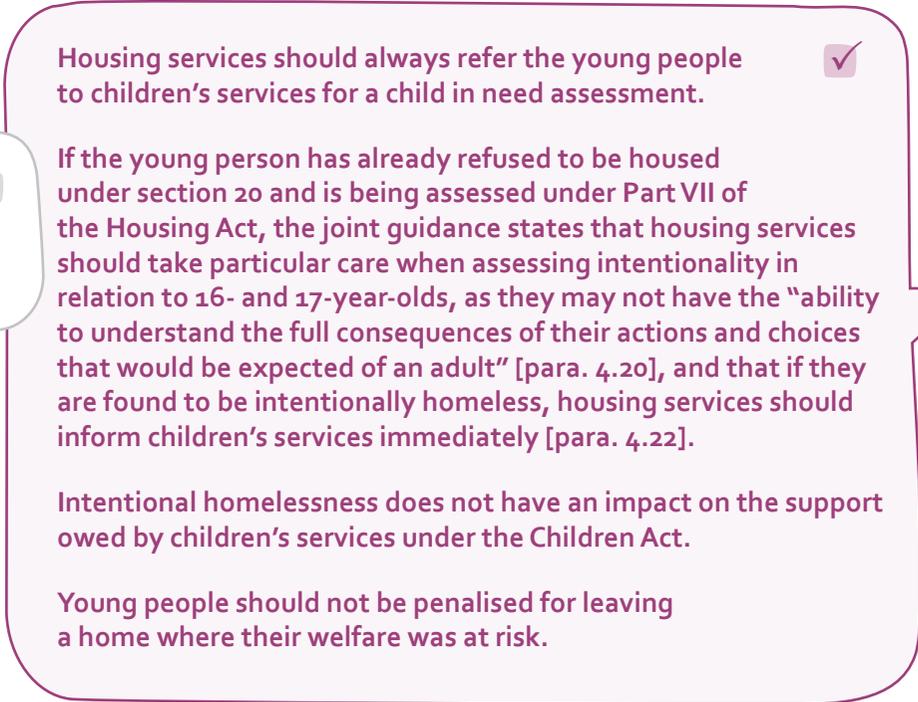
"You are not homeless, you have somewhere to stay." X



Sofa surfing is homeless. ✓
If the young person does not have somewhere stable to stay, they have no home and are homeless. This means they will be entitled to support.



"You left your home voluntarily so you are intentionally homeless, and we can't help you." X

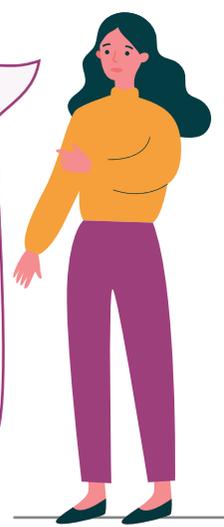


Housing services should always refer the young people to children's services for a child in need assessment. ✓

If the young person has already refused to be housed under section 20 and is being assessed under Part VII of the Housing Act, the joint guidance states that housing services should take particular care when assessing intentionality in relation to 16- and 17-year-olds, as they may not have the "ability to understand the full consequences of their actions and choices that would be expected of an adult" [para. 4.20], and that if they are found to be intentionally homeless, housing services should inform children's services immediately [para. 4.22].

Intentional homelessness does not have an impact on the support owed by children's services under the Children Act.

Young people should not be penalised for leaving a home where their welfare was at risk.



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About Homeless Link

Homeless Link is the national membership charity for frontline homelessness services. We work to improve services through research, guidance and learning, and campaign for policy change that will ensure everyone has a place to call home and the support they need to keep it.

Let's end homelessness together

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About Just for Kids Law

Just for Kids Law is a UK charity that works with and for children and young people to hold those with power to account and fight for wider reform by providing legal representation and advice, direct advocacy and support, and campaigning to ensure children and young people in the UK have their legal rights and entitlements respected and promoted and their voices heard and valued.

Empowering children and young people. Standing up for their rights.

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