

Interim Arrangements Between Children and Young People's Services, Devon's Housing Authorities and the Voluntary Sector for working with 16/17 year olds who are in Housing Need June 2009

Introduction

The recent House of Lords Judgment on the case R(G) v Southwark LB has led to a significant change in the way 16/17 year olds who are in need of housing and support are managed. This interim guidance has been issued by Devon Children's Trust of which Devon's Housing Authorities and Children and Young People's Services (C+YPS) are members. These arrangements will remain in place until the necessary changes can be made to the Housing and Support protocol between C+YPS and the local Housing Authorities.

Whilst this is a significant ruling and will challenge the way all agencies work with this group of young people, we are in Devon in a strong position to implement any necessary changes following a long period of successful joint working between the Housing Authorities and C+YPS.

In recent years we have worked together to reduce homelessness applications from this age group and a number of resources have been developed to support vulnerable 16/17 year olds in housing need. We see it as essential that we build on the success of our partnership and the challenges brought by this judgement are met collaboratively.

Whilst this judgement is challenging for all agencies to implement, the young people we are supporting will be anxious and frightened about their future and their welfare is at the centre of this agreement.

Back ground and legal context

The recent House of Lords Judgment on the case R(G) v Southwark LB confirmed that local authorities should presume that any lone, homeless child should be provided with accommodation and under s 20 of the Children Act 1989 unless the child is not in the local authority's judgment (based on an initial screening assessment), a child "in need". In nearly all cases the impact of a child being homeless and their parents being unable to provide them with suitable accommodation or care would result in such significant challenges to the child's welfare, that the child will be a child "in need". Where the criteria for s 20 have been met children's services do not have discretion to choose to use s 17 powers instead to provide accommodation. The effect of providing accommodation under s 20 is of course that the child becomes "looked after" within the meaning of section 22 of the Act.

Some homeless 16 and 17 year olds will still have priority need under the homelessness legislation (by virtue of article 3 of the *Homelessness (Priority Need for Accommodation) (England) Order 2002*) these will include those whose need for accommodation did not fall within the circumstances specified in s.20(1) of the 1989 Act - for example, because they had been living independently for some time prior to their homelessness - and those whose need for accommodation fell within s.20 but who did not want to be accommodated under s.20. Such young people must be judged to be competent to make such a decision and have had the benefit of advice about the consequences of making such a decision.

The duties of local authority children's services to accommodate children in need can not be circumvented by referring the child to the housing authority, whose duties under the homelessness legislation (Part 7 of the Housing Act 1996) provide a safety net only for those (very few) children who will not meet the criteria for accommodation under section 20 of the 1989 Act. Their Lordships made it clear that the Children Act duties take priority.

It will be extremely important that there continues to be close partnership between children's services and housing authorities to support local authority responsibilities under the Children Act for meeting the needs of children in their area. Baroness Hale referred to section 27 of the Children Act 1989, which empowers Local Authorities (that are children's services authorities) to ask other authorities, including any local housing authority, for "help in the exercise of any of their functions" under Part III of the 1989 Act.

The requested authority must provide help if it is compatible with their own statutory or other duties and does not unduly prejudice the discharge of their own functions. But, she said, this does not mean that the children's authority can avoid their responsibilities by "passing the buck" to another authority; rather that they can ask another authority to use its powers to help them discharge theirs.

Agreed interim arrangements

Presenting in Housing Need

1. Liaison between Managers in Children and Young People Assessment Teams and Housing Needs Managers within Local Housing Authorities will be expected to take place to manage the arrangements listed below in a manner that works at a local level.
2. Young people aged 16/17 who present to their local housing department in housing need will continue to be offered a housing options interview or be seen by the dedicated youth prevention worker. The Housing Options interview will be provided within the Housing Department or within the Voluntary Sector. This will depend on what local District arrangements are in place. The purpose of the interview will continue to be the prevention of homelessness. A significant number of young people receive advice and support about their housing and support options and do not go on to make applications.
3. In the event that homelessness cannot be prevented and a 16/17 year old requires accommodation the local housing authority will contact the local C&YP Team to request that the YP be accommodated under s.20 of the Children Act 1989 pending the outcome of a Initial Assessment as set out in the National Framework for Assessment 2002. The C&YP Team will make the necessary arrangements to accommodate the young person under s.20 of the Children Act 1989 whilst undertaking a Initial Assessment CIN assessment.
4. The local housing authority may be able to assist the C&YP Team in securing a placement for the young person, dependent on available resources; (for example supported lodgings, B&B or other temporary accommodation.) In such circumstances the young person will be accommodated under s.20 Children Act 1989 and not under s.188 (1) of the Housing Act 1996, as amended by the Homelessness Act 2002.
5. If a Young Person decides they do not want to be looked after under s. 20 after they have been given a fair and balanced advice about the benefits and disadvantages not to be accommodated under s.20 then the case will be passed on to the relevant Housing Authority and the young person provided with advice and assistance to secure alternative accommodation. If homelessness cannot be prevented the case will be assessed under the Housing Act 1996 Part VII, as amended by the Homelessness Act 2002.
6. Where a young person has refused assistance under section 20, but has additional needs other than a housing need, then C&YP team will remain involved with the young person, providing Social Work time or ensuring their needs are met by an alternative provision, whilst their Housing needs are being met by the Housing Authority.

Presenting in Housing Need with complex Needs

1. There will be some Young People who present in Housing Need with a range of high and complex needs. In these cases where the Housing Authority/Voluntary sector are looking at means to prevent the young person from becoming homeless, an Initial Assessment should also be requested by the Housing Authority to the local Children and Young People services.

Young People who have experienced Tenancy Breakdown

1. All measures are expected as per the current Housing and Support Protocol and Existing Homeless Prevention Panels to prevent tenancy breakdown within the Supported Housing Sector. If this can not be achieved then Supported Housing Providers should alert their local children and young people's service team and make a referral on behalf of the young person for an Initial Assessment prior to the eviction date.
2. The local CYPS team will need to provide emergency accommodation for the young person where necessary pending the results of their Assessment.