

Getting it right for 16 and 17 year olds approaching as homeless

A joint protocol between Slough Borough Council's children's service and housing service



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This protocol outlines the procedure to be followed by Slough Borough Council's children's service and housing service when approached by a 16 or 17 year old young person who is homeless or threatened with homelessness.

This protocol sets out how Slough Borough Council will comply with relevant Children Act 1989 and Housing Act 1996 legislation, as well as the House of Lords Southwark judgement.

1. Aims and purpose

- 1.1. The purpose of this protocol is to outline the agreed practices, responsibilities and roles of Slough Borough Council's **children's services** and **housing service** in relation to young people aged 16 and 17 approaching the council as homeless, or threatened with homelessness.
- 1.2. This will ensure the appropriate assessment and delivery of services to meet the needs of young people.
- 1.3. **Children's services and housing services agree that:**
- (a) homelessness can be prevented through active intervention;
 - (b) 16 and 17 year olds are best accommodated in their family home, or where this is not safe or appropriate, with responsible adults in the wider family and friends network; however,
 - (c) 16 and 17 year olds should not remain in their family home if this places them at risk of violence or other harm;
 - (d) 16 and 17 year olds who are homeless may be vulnerable and in need of support
 - (e) the appropriateness of mediation and family group conferences should be assessed in every case;
 - (f) all agencies should prevent homelessness where they can.
- 1.4. **This protocol enshrines the above agreements through:**
- (a) Ensuring compliance with the statutory guidance issued by the DCSF in April 2010.
 - (b) Providing an efficient and timely response to young people aged 16 and 17 who present to the authority as homeless or at risk of homelessness.
 - (c) Preventing young people from being passed between departments, or having to repeat their story multiple times.
 - (d) Enhancing joint working and a joint approach through better understanding and communication between children's services and the housing service.
 - (e) Delivering a child centred response to the needs of 16 and 17 year olds who are homeless or threatened with homelessness.
 - (f) Giving families and 16 and 17 year olds clarity about the assessment process and the support available.
- 1.5. Underpinning this protocol is the understanding that in the majority of cases 16 and 17 year olds can best be accommodated in their family home, and that a departure from this is best dealt with as part of a planned transition, not an emergency.
- 1.6. This protocol takes account of the statutory guidance issued on the 1st April 2010 to local authorities jointly by the Secretary of State for Children, Schools and Families and the Secretary of State for communities and Local Government¹.
- 1.7. This guidance is aimed at clarifying the roles and responsibilities for children's services and local housing authorities about their respective duties under Part 3 of the Children Act 1989 and Part 7 of the Housing Act 1996 in securing and providing accommodation to homeless 16 and 17 year old children, following the judgement of the House of Lords in the case of R (G)-v- London Borough of Southwark².
- 1.8. This protocol should be read in conjunction with council strategies which set out the political and corporate priorities of the council, including the Tenancy Strategy 2013-2018, the Housing Allocation Scheme 2013-2018 and the Homelessness Strategy.

¹<https://www.gov.uk/government/publications/provision-of-accommodation-for-16-and-17-year-olds-who-may-be-homeless-and-or-require-accommodation>

²<http://www.publications.parliament.uk/pa/ld200809/ldjudgmt/jd090520/appg-1.htm>

2. Process to be followed

[also see flow chart at appendix 1]

To ensure young people approaching Slough Borough Council receive the appropriate response and services, the following stages should be followed.

Stage 1 - Jointly hear the young person's story

It is important that whichever service or building a 16 or 17 year old young person approaches, they get the same customer focussed response. It is also important that the young person does not have to unnecessarily repeat their story, so a joint Early Help Assessment should be carried out at Landmark Place by a social worker and housing officer, using the joint triage form as a guide.

Stage 2 - Encourage the young person to return home, if it is safe to do so, and commence mediation services

All services agree that in the majority of circumstances, **the best place for a young person is at home**. If the Early Help Assessment finds that it would be safe for the young person to return home, they should be encouraged to do so.

Mediation services, including family group conferences, should be arranged to support the young person to return home, and should continue once the young person is there.

If a return to home is not possible immediately, accommodation with family or friends should be investigated, with ongoing mediation to return home. As a last resort, the council can arrange accommodation away from the family.

The young person should be signposted to, and encouraged to engage with **early help services**, if they are not already.

Stage 3 - Where a return home is not immediately possible, carry out a Children and Families Assessment

If the young person cannot be returned home, or to family and friends, the council may have to consider alternative options. At this stage a **Children and Families Assessment** should be carried out to assess the young person's level of need. Duty may be offered under section 20 or section 17 of the Children Act 1989 (see Legal Context in appendix 3 for details).

Stage 4 - The Children and Families Assessment will determine duty owed

If a return home is still not possible, the Children and Families Assessment will identify **whether section 20 accommodation duty is owed**.

If section 20 duty is owed Children's Services will be responsible for funding and providing accommodation, **the assistance of the housing demand team in securing this accommodation should be called upon**. The young person will become a looked after child.

If section 20 duty is not owed, or the young person refuses section 20 duty, **assistance under section 17 may be provided** if the criteria are met. In this case accommodation will be provided by the housing service under homelessness duties, if the eligibility is met. The social worker should remain involved to develop a support plan for the young person.

3. Presentation to the local authority

3.1. A 16/17 year old approaching any council building claiming to be homeless or at the threat of homelessness **in an emergency situation** should be directed to Landmark Place. The young person should be directed to the Housing Demand Team, who will contact the Early Help Duty Team to send a social worker to allow a joint panel to be immediately formed comprising:

- an on duty housing advisor, and;
- a qualified on duty social worker.

Both services should ensure an appropriate member of their staff is available within working hours (to 5pm) should an emergency arise.

In the case of an approach out of hours, the case should be referred to the Emergency Duty Team, until the next period of working hours.

3.2. The panel will then meet jointly in Landmark Place, with the young person and any advocate who is accompanying the young person to carry out an **Early Help Assessment** [See appendix 2]. For children's services this will inform a decision as to whether the young person requires a **children and families assessment**, while for housing services it will form the early stages of a **housing needs assessment**. Children's services will be the lead agency given their responsibilities for children in need in their areas.

3.3. The Early Help Assessment will inform whether it is safe for the young person to **return home**. All services agree that in the majority of circumstances this is the best place for young person.

3.4. If appropriate, **mediation** will be engaged immediately to attempt reconciliation between the young person and their family. It is crucial that this work commences immediately as the chances of reconciliation diminishes with time. This may be provided either through professional mediation services, or by social worker visits to the family home in the first instance.

3.5. If it is not safe for the young person to return to the family home, or there are no other family or friends the young person can stay with, **emergency accommodation** should be provided unless it can very quickly be established that the young person is not homeless and does not require support. The housing demand team should be consulted and may be able to assist in the provision of accommodation. The decision will take account of whether the young person is competent to take such decisions. It should be presumed that any homeless child should be accommodated unless they are not a child in need³. Accommodation required during further assessment may be provided by children's service under section 20, or by housing services under section 188, pending the outcome of each department's investigations.

3.6. **Bed and breakfast placement is not considered suitable accommodation for a 16 and 17 year old.**

3.7. Within 1 working day children's services must decide whether to carry out a **children and families assessment** to establish whether s17 or s20 duty is owed. The decision to collect additional information will constitute the commencement of an assessment, which will then be completed within 10 working days.

3.8. In tandem to the children and families assessment, housing services will commence a **housing needs assessment** to establish homelessness, eligibility, intentionality and priority need. This will become relevant following the conclusion of the children and families assessment, but carrying the two out in tandem will reduce delays. The Children's Act 1989 has primacy over the Housing Act 1996 (as amended) and therefore duties under the Children's Act must be discharged before application of the Housing Act responsibilities.

³"The presumption must be that all lone children who meet the criteria in section 20(1) must be accommodated by children's services authorities, "at least until their needs have been properly assessed and plans are in place to address those needs". Law Lords judgement *G vs. Southwark* (May 2009)

- 3.9. Children's services will assess the young person's needs according to the 1989 Act (a children and families assessment), hinging on whether their health and development will be negatively impacted without intervention. This is likely to be the case where the young person is excluded from home, is sofa surfing, sleeping in a car or a homeless parent. Determining who is in need and the extent of any needs requires professional judgement by children's services staff.
- 3.10. If on the completion of a children and families assessment it is judged that a section 17 or 20 duty is owed to the young person, housing services should be informed of this if they have been providing interim accommodation to facilitate the transferring of responsibility from the housing service to children's services. If children's services have been providing accommodation under section 20 already, then the outcome of the children and families assessment will inform appropriate ongoing accommodation and support requirements. Conclusion is considered to be when all parties have been informed of the outcome of the initial assessment.

4 Consideration of the young person's wishes and feelings

- 4.1 S20(6) Children Act 1989 requires the assessment to seek the young person's wishes and feelings before providing them with accommodation under s20. This will also include an assessment of the young person's emotional and behavioural development and their capacity to make use of wider resources for independent living.
- 4.2 A young person's wishes and feelings is not the deciding factor in determining whether they should be provided with accommodation under s20 or s17 but is one of a range of factors which must be considered in the assessment.
- 4.3 The young person should have access to independent advocacy and support to assist them in weighing up the advantages and disadvantages of being accommodated under s17 or s20.
- 4.4 **The social worker will be required to assure themselves of the following:**
- 4.4.1 That the young person is fully consulted about and understands the implications of being accommodated by children's services and being looked after.
- 4.5 **The Housing Officer will be required to assure themselves of the following:**
- 4.5.1 That the young person receives accurate information about the assistance which may be available to them including from housing under Part 7 if they are not accommodated under s20.
- 4.5.2 That the young person understands how the entitlement under Part 7 of the Housing Act will be determined.
- 4.5.3 The implications of being made homeless under s20 or Part 7 of the Housing Act and how this could affect future housing applications.
- 4.6 If there is doubt that the young person is not able to judge what is in their best interest, a discussion should take place between the young person, their family, the housing officer and the social worker and reach agreement about the way forward.

5 Decision that s20 accommodation should be provided

- 5.1 If the outcome of the assessment is that the young person has complex needs which require S20 accommodation, this will be identified by children's services.
- 5.2 The young person will be advised of this decision, and if agreement has been obtained will become looked after at this point.
- 5.3 The identification of suitable accommodation will depend on the outcome of the assessment which will take into account the young person's needs. Where required the Housing Service will endeavour to assist in the procurement of appropriate accommodation. Types of accommodation could include:
- Placement with a family member (S17 or S20)
 - Foster care
 - Children's residential unit
 - Hostel or similar emergency provision
 - Semi independent accommodation
 - Supported lodgings
 - Crash pad
 - Such other arrangements as are considered appropriate
- 5.4 The local authority may decide that another type of specialist placement is appropriate in view of the young person's assessed needs. This will enable the social worker to tailor the provision of accommodation to the needs of the young person for whom a foster placement or children's home would not be an appropriate placement.
- 5.5 If the social worker decides that 'other arrangements' are necessary a placement plan must be agreed and prepared with the young person and the person responsible for supporting the young person in the accommodation.

6 Decision that s20 accommodation is not required

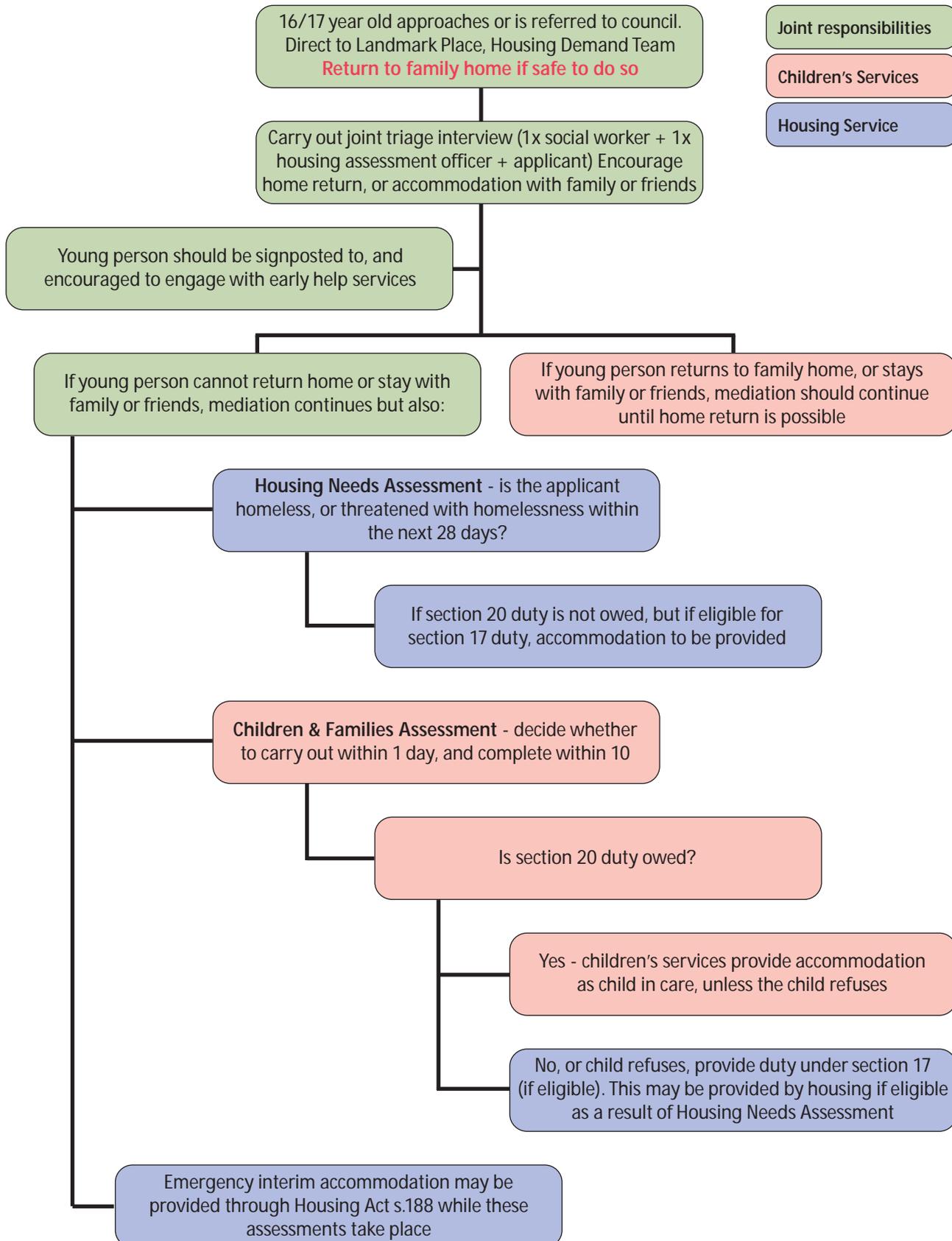
- 6.1 If it is determined that the young person does not require accommodation, children's services should consider whether services should be provided under s17 in order to assist the young person. Housing services will continue the homelessness assessment if it has not yet been concluded to ascertain whether any duty is owed.
- 6.2 Children's services should also consider a strategy to avoid the young person being threatened with future homelessness.
- 7 What if the young person refuses s20 accommodation?**
- 7.1 At the conclusion of the assessment the young person may refuse s20 accommodation. At this stage the social worker must be satisfied that:
- 7.1.1 The young person has been provided with all relevant information
- 7.1.2 Is competent to make such a decision
- 7.2 At this stage the social worker should:
- 7.2.1 Consider what support if any is to be provided to the young person under s17 Children Act 1989, if they meet the criteria.
- 7.2.2 Contact the housing needs team to inform them. A housing needs assessment should already be in progress. If the young person refuses section 20 accommodation, and refuses to go home, the authority may have to conclude that the extent of the authority's intervention has been exhausted.

8 Monitoring and review of the protocol

- 8.1 Children's services and housing will meet annually to review this joint protocol in order to:
 - 8.1.1 Consider its effectiveness
 - 8.1.2 Consider improved ways of working
 - 8.1.3 Consider representations made by any agencies
- 8.2 In the event of disputes between children's services and housing about the implementation of any part of this protocol the following procedure is to be followed:
 - 8.2.1 The worker will immediately inform their line manager of the nature of the dispute.
 - 8.2.2 The line manager will immediately contact the relevant manager in children's services and housing to inform of the dispute and seek to resolve the dispute the same day.
 - 8.2.3 If line managers are unable to resolve the dispute the matter must be progressed within one day to a senior team manager or equivalent for dispute resolution. During this time the young person may need to be provided with temporary safe accommodation, this may include 'crash pad' or other temporary accommodation when available.
- 8.3 Disputes between children's services and housing about the implementation of this protocol or parts of this protocol should not prejudice the assessment and provision of a service to a young person who presents as homeless or at risk of homelessness. At all times the young persons welfare should be the focus of both children's services and the housing demand team.

Appendix 1: 16-17 protocol flow chart

Children's services are the lead department in this process



Appendix 2: Joint triage interview form



This is a dual purpose form. It should be used to make a referral to all services for children from Early Help through to Child Protection and cases in between. It can also be used to complete an Early Help Assessment. It is based on the Slough assessment framework which has four categories of assessments: universal, Early Help, Statutory Child and Family and other statutory assessments. This avoids duplication by allowing assessments at every level to feed into the next level where needed. The form should be used to conduct a 'whole family assessment', which clearly outlines the needs of individual children and family members as well as the family as a whole. The resulting plan should address all these needs

MULTI-AGENCY and EARLY HELP ASSESSMENT FOR CHILDREN, YOUNG PEOPLE AND FAMILY SERVICES

New Referral Tel: 01753....	Date Started.....
New Referral Fax: 01753 690801	Date Closed:.....
Secure email: child_protection@slough.qcsx.gov.uk	Referred/Allocated to.....
Early Help Assessment Tel: 01753.....	

Part 1 Background Information

This form completed by: _____ Designation: _____

Organisation: _____

Address: _____ Phone No: _____

Date: _____

Is this referral for a specific service? _____
(e.g. Family Support, Education, Youth Services, Learning Disability, LA Children's services etc)

Child/Young Person's name and address: Where there is more than one child subject to the referral and Early Help Assessment give details of **all** children

Family Name (Include other names used)	Forename	Address and Telephone	DOB	Gender M/F	Is Child Disabled Y/N	Child already subject to assessment or plan? Y/N	Unique Reference Number

CHILD'S ETHNICITY		Please circle one			
White	Mixed	Asian/Asian British	Black/Black British	Other Ethnic Group	
A1 White British A2 White Irish A3 White European A4 White Other	B1 White/Black Caribbean B2 White/Black African B3 White & Asian B4 Other Mixed	C1 Asian Indian C2 Asian Pakistani C3 Asian Bangladeshi C4 Asian Other	D1 Black Caribbean D2 Black African D3 Black Other	E1 Chinese E2 Other F1 not stated	

Religion _____ Child's language _____ Parents' Language _____

Data Protection Act: any information given will be used within the guidelines in "Working Together to Safeguard Children 2013." It will be treated in strict confidence and only disclosed as necessary and to any extent appropriate and as required by law or to safeguard a child in the public interest. Where information is disclosed to other agencies it will be subject to the provisions of the Multi-Agency Disclosures Protocol. Details may be shared with the family/child as necessary to safeguard the child and for the assessment process.

Details of other Family Members and Connected Persons

Name	DoB	Relationship (include siblings)	Gender M / F	Living in home Y / N

Professionals involved with the child and family

Agency	Name	Address/email address	Telephone Number
GP			
School			
Health Visitor			
Mental Health			
Other			

Is the family aware of the referral/early help assessment? Yes / No

Has the Consent to Share Information Form been signed? Yes/No
 (This is not applicable where there are significant concerns S47 Children Act 1989)

The family should be made aware of the referral and the nature of the information being shared unless this might put a child/vulnerable person at risk or potentially compromise a police investigation.

If no to any of the above, please record reasons:

Reasons for Referral/Early Help Assessment

Please specifically answer: what is the type and level of need/risk (see Needs/Risk Matrix on following page) and what you hope to see happen as a result of this referral/early help assessment

LEVEL

MULTI-AGENCY NEEDS/RISK MATRIX

The needs-risk matrix has been developed to inform decision making about who should provide and receive services and with what level of priority. The indicators in levels 3 and 4 denote circumstances in which assessment and/or involvement by Children's Social Care is appropriate. Levels 1 and 2 indicate circumstances in which other agencies should intervene. See <http://sloughchildcare.proceduresonline.com/chapters/contents.html>

Level 1	Level 2 - Low risk to vulnerable
<p>No identified additional needs. Response services are universal services.</p> <p>Assessment: If the agency identifies that the need can be met by a single agency and/or universal services the agency's own assessment process should be used.</p>	<p>Child's needs are not clear, not known or not being met. This is the threshold for beginning a common assessment. Response services are universal support services and/or targeted services.</p> <p>Assessment: Where the assessment indicates that a multi-agency response is required to meet additional needs, seek consent to share information with other agencies and commence Early Help Assessment.</p> <p>May also include statutory assessments such as Education, Health and Social Care Plan (which is the new statutory plan for SEN and Disabilities); the statutory Youth Offending Plans and Not in Education, Employment or Training (NEET) Plans.</p>
Level 3 – Complex	Level 4 – Acute
<p>Complex needs likely to require longer term intervention from statutory and/or specialist services. High level additional unmet needs - this will usually require a targeted integrated response, which will usually require a specialist or statutory service. This is also the threshold for a child in need which will require Children's Social Care intervention.</p> <p>(Assessment: Single Assessment, led by Social Care. This assessment will be used for statutory services under section 17 of the Children Act 1989 (Children in Need), Section 47 (significant harm) and Section 20 (duty to accommodate) and Section 31 (care orders.)</p>	<p>Acute needs, requiring statutory intensive support. This in particular includes the threshold for child protection which will require Children's Social Care intervention.</p> <p>Assessment: Single Assessment, led by Social Care.</p> <p>May also include statutory assessments such as Education, Health and Social Care Plan (which is the new statutory plan for SEN and Disabilities); the statutory Youth Offending Plans and Not in Education, Employment or Training (NEET) Plans.</p>

PART 2: ASSESSMENT INFORMATION

The following assessment 'domains' are based on the national Framework for Assessment¹ and should be used in all Slough assessments. (See notes below for guidance.) Use any previous/existing assessment information as a starting point Consider each of the elements as appropriate to the circumstances. You do not need to comment on every element. Base your comments on evidence and not just on opinion. Record your evidence. Comment on strengths as well as needs. If there are major differences of view, these should be recorded too.

Child/Young Person's Developmental Needs (identify areas of strength and areas of developmental need, in order for resources to be allocated appropriately to ensure the optimum development of particular children/young people)

<p>Health (Conditions and diagnoses, immunisations, development checks, hospital admissions, accidents, general health issues, including physical development, disability and speech and language)</p>
<p>Education (where is child enrolled, what year, name of teacher, child protection liaison, is the child achieving within normal bounds, are there attendance issues, do parents engage with the school, does child have a statement of special needs, does child arrive early, leave late, do they have friends. Note any learning issues (if known) such as: progress in basic and key skills, confidence, ambition, understanding, reasoning and problem solving)</p>
<p>Emotional and Behavioural development (Does the child have any diagnosis regarding emotional well-being or behaviour, what professionals are involved, is the child meeting developmental milestones, what is their usual mood, are they withdrawn, do they participate in activities with other children, are the parents concerned about the child or detached from the issues, what is the child's self-care skills. Are there concerns regarding early attachments, risk/actual self-harm, phobias, psychological difficulties, coping with stress, motivation or lifestyle, substance misuse, risky behaviour, violence and aggression, attention span/concentration or reckless or impulsive activity.)</p>
<p>Identity and social presentation (how does the child identify themselves – race, ethnicity, gender, religion, etc. Are there concerns regarding identity, self-esteem, self-image and social presentation.) Do they dress appropriately for the seasons, are they well kempt, do the parents provide for these needs, are they able to join in with their peer group – if not, why not)</p>
<p>Family and social relationships (family dynamics – how does the family relate to one another, who is the child close to,)</p>

¹ The Framework for Assessment of Children and Families is now incorporated in Working Together to Safeguard Children 2013

Parents'/Carers' capacities to respond appropriately to the child's young person's needs (It is important to be aware of strengths as well as any difficulties the parent/carer is experiencing.

Research shows that the following are most likely to affect parenting capacity: **physical illness; mental illness; learning disability; substance/alcohol misuse; domestic violence; childhood abuse; history of abusing children**).

Basic care (is parent able to meet basic needs – food, warmth, shelter, appropriate clothing, health care, physical safety, emotional wellbeing, education – if not is this due to one of the above mentioned issues)

Ensuring safety (does parent use physical discipline, is this excessive, does the parent supervise appropriately or ensure that the child has an appropriate carer, does the parent allow unsafe people to have access to the child – why are these people unsafe)

Emotional warmth (does the parent show the child love, approval, affection – is this conditional and if so what are the conditions)

Stimulation (especially for young children does the parent engage with the child, speak with them, encourage play, learning and seeking, does the parent participate in education, model positive behaviour)

Guidance and boundaries (does the child have reasonable rules and boundaries, is there a curfew, knowledge of friends and activities, does the parent engage the child as a friend rather than child, are there reasonable expectations of behaviour, reasonable consequences for poor behaviour)

Stability (is the parents' relationship stable, do they separate often, do parents have new partners often with access to the children and the home, are parents able to maintain job and home or does this change often – if yes what is the impact on the child)

Family and Environmental Factors which impact on the child and family

Family history and functioning *(Please give details of history and current situation, significant events for the family – positive or negative, what is the history of domestic violence, criminality, culture, size and composition of household, absent parents, relationship breakdowns, honour based violence, physical, sexual or emotional abuse within the family.)*

Social resources *(wider family, community resources used and/or refused, family's social integration. Include formal and informal support networks)*

Housing *(name of housing worker, overcrowding, condition of the home, facing homelessness, how is home paid for, is the home safe)*

Employment and income *(where do parents work and what are their hours, how does this work impact the family, are they receiving any benefits, concerning financial difficulties)*

What is your summary, what needs to change and what are your recommendations?

For the Early Help Assessment please also complete the attached Action Plan.

Views of child/young person

Views of Parents/Carers

Signed:..... Designation:..... Date:

Appendix 3: Legal Context

1. Within the context of young people approaching the council as homeless or threatened with homelessness, the Children Act 1989 takes precedence over the Housing Act 1996, and this will therefore be the leading guidance in setting out the processes which need to be followed.

2. **The Children Act 1989**

Section 17 of the Children Act 1989 sets out the responsibilities of local authorities to provide services for children in need (within the family), and their families who are in their area.

S17(1) - It is the general duty of every local authority to:

- (a) *Safeguard and promote the welfare of children within their area who are in need; and*
- (b) ***So far as is consistent with that duty, to promote the upbringing of such children by their families.***

By providing a range and level of services appropriate to those children's needs.

Section 17(10) defines a child as being in need if:

- (a) *He is unlikely to achieve or maintain or have the opportunity of achieving or maintaining a reasonable standard of health or development without the provision for him of services by a local authority under the Part;*
- (b) *His health or development is likely to be significantly impaired, or further impaired without the provision for him of such services; or*
- (c) *He is disabled.*

Under Section 17, children and young people are entitled to an assessment as a child in need.

Services may be provided by or facilitated through social services.

Section 20 (1) of the Children Act 1989 requires that:

Every local authority shall provide accommodation for any child in need in their area who appears to them to require accommodation as a result of:

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

Section 20(3) provides that every local authority shall provide accommodation for any child within their area who has reached the age of 16 and whose welfare the authority consider likely to be seriously prejudiced if they do not provide him with accommodation.

Section 20(4) provides that a local authority may provide accommodation for any child within their area (even though a person who has parental responsibility for him is able to provide him with accommodation) if they consider that to do so would safeguard or promote the child's welfare.

Section 20(6) provides that before providing accommodation under this section a local authority shall so far as is reasonably practicable and consistent with the child's welfare:

- (a) *ascertain the child's wishes (and feelings) regarding the provision of accommodation; and*
- (b) *Give due consideration (having regard to his age and understanding) to such wishes (and feelings) of the child as they have been able to ascertain.*

Section 20(7): A local authority may not provide accommodation under this section for any child if any person who:

- (a) has parental responsibility for him; and*
- (b) is willing and able to:*

provide accommodation for him; or

- (a) arrange for accommodation to be provided for him,*
- (b) objects.*

Section 20(8): Any person who has parental responsibility for a child may at any time remove the child from accommodation provided by or on behalf of the local authority under this section.

Section 105(1) Children Act 1989 defines a child as anyone under the age of 18.

3. Children Act 2004

This Act supports the achievement of the five aims of Every Child Matters:

- Be healthy
- Stay safe
- Enjoy and achieve
- Make a positive contribution
- Achieve economic well being

4. The Homelessness (Priority Need for Accommodation) England) Order (SI 2002 No. 2051)

The order sets out further categories of applicants with priority need under the homelessness legislation. The additional categories reflect the vulnerability of these particular groups to homelessness. The categories include:

- (a) a person aged 16 or 17 who is not a relevant child or a child in need to whom a local authority owes a duty under s. 20 of the Children Act 1989;*

- (b) a person under 21 who was (but is no longer) looked after, accommodated, or fostered between the ages of 16 and 18 (except a person who is a 'relevant student');*
- (c) a person aged 21 or more who is vulnerable as a result of having been looked after, accommodated, or fostered (except a person who is a 'relevant student')".*

Examples of the small number of homeless 16 and 17 year olds who would have priority need under the homelessness legislation (by virtue of article 3 of the Homelessness (Priority Need for Accommodation) (England) Order 2002) would include:

- (a) Young person does not want to be accommodated as a looked after child - 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.*
- (b) Young person has been living independently without anyone caring/taking parental responsibility for him/her - 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.*

5. Housing Act 1996 Part VII

Under this Section, a local authority has a duty to make enquiries to satisfy itself as to whether a family/young person aged 16/17 years old is:

- (a) Eligible for assistance
- (b) Unintentionally homeless or threatened with homelessness and,
- (c) In priority need.

Young people aged 16/17, and care leavers aged 18-21 are deemed to be in priority need.

When assessing applications for housing assistance from young people under 25, who do not fall within these specific categories of priority need, housing authorities should give careful consideration to the possibility of vulnerability, where, when homeless, the applicant is less able to fend for themselves than an ordinary homeless person, and is likely to suffer detriment in circumstances where a less vulnerable person would be able to cope without harmful effects. Young people who have to leave home because of abuse or violence are less likely to have the back up of support from families in setting up and managing an independent home.

6. Lords of Appeal Southwark Judgement

This judgement considered the question of whether a children's services authority can arrange for a young person to be housed by a local housing authority under Part VII of the Housing Act 1996, rather than under section 20 of the Children Act 1989. The conclusion was that "In blunt terms, a local children's services authority cannot refer a homeless child in need to the local housing authority".

Furthermore, a "children's authority can[not] avoid their responsibilities by "passing the buck" to another authority; rather they can ask another authority to use its powers to help them discharge theirs." This means that a housing authority can assist in providing accommodation, but that the children's authority cannot avoid accommodating the young person under section 20, if this is assessed to be the most appropriate course of action. This is based on the principle that the Children Act 1989 has primacy over the Housing Act 1996.

The judgement further highlights that young people subject to section 20 duties and "relevant" children are expressly excluded from the Homelessness (Priority Need for Accommodation (England) Order 2002. Therefore an assessment of whether the children's authority has a duty to a young person under section 20 should be carried out prior to a housing authority considering their duty under the Homelessness Order 2002.

This view is further supported by a number of sources;

"...the clear intention of the [1989 Children Act] is that these children need more than a roof over their heads and that local children's services authorities cannot avoid their responsibilities towards this challenging group by passing them over to the local housing authorities" *R (M) v Hammersmith and Fulham London Borough Council [2008] UKHL 14, [2008] 1 WLR 535*

Getting it right for 16 and 17 year olds approaching as homeless