

Practice Direction for the Children in Care Service – August 2018

16/17 year olds accommodated by DCC under Section 20 of the CA 1989

Context

This direction specifically relates to Young People aged 16/17 years old who have consented to Section 20 Accommodation and what the Local Authority's position is in respect to disengaged Young People who are accommodated under Section 20 and in the provision of unused accommodation under this duty.

Derby City council takes its Section 20 duties seriously and will work with young people in achieving the best possible outcomes. This process does not look lightly at the discharge of Section 20 duties and 'Any decision to cease looking after a child aged 16 or 17 who is Looked After other than by virtue of a Care Order, must be approved by the Director of Children's Services.'

The Director must be satisfied that:

- The child's wishes and feelings have been ascertained and given due consideration;
- The child's Independent Reviewing Officer has been consulted;
- The child's relatives have been consulted, where appropriate and possible.

(The Children's Homes and Looked after Children (Miscellaneous Amendments) (England) Regulations 2013)

Derby City Council's Housing Framework for 16/17 year olds clearly stipulates the routes into accommodation for 16/17 year old utilising both childcare and/or housing legislation. In the absence of a Section 20 Duty, housing legislation and the duties set out within these acts have precedence.

When a young person agrees to Section 20 accommodation there are responsibilities placed upon the Local Authority, but also the Young Person themselves. At the point of accommodation Young People aged 16/17 are advised of the expectations that are placed upon them and the accommodation under this duty is based upon a two way relationship.

In the event that a Young Person who is accommodated under Section 20, no longer consents to the provisions of Section 20 then serious consideration needs to be given to discharging their Section 20 status.

Indicators as to what could constitute towards a withdrawal of consent are as follows:

Young Person refuses to engage in the care planning process.

Young Person persistently refuses or is unavailable to engage with Social Workers/Social Care.

Young Person persistently refuses or is unavailable to allow appointed Social Workers into their accommodation to undertake their statutory duties.

Young Person is not using the accommodation provided by the Local Authority under Section 20.

Young Person states that they no longer wish to be accommodated.

Without a clear rationale for the above actions the Local Authority must consider whether the application of Section 20 duties remain appropriate and/or proportionate.

NOTE – This process does not apply to Children with Learning Disabilities/Capacity Issues.

Refusal to engage in the planning process/discharge of statutory functions

There are occasions when young people choose to be provided with accommodation under Section 20, but then decline to work with or meaningfully engage with professionals involved in the development and implementation of their care plan. This lack of ongoing engagement requires robust evaluation and in the absence of a care planning relationship between the YP and Derby City Council, the question of active consent to section 20 needs to be considered.

In these circumstances the following will need to be explored;

- YP views to be sought – why are they not working with the Council, what are the barriers?
- What alternatives have been explored to facilitate meaningful care planning relationships?
- Does the Young Person consent to being accommodated under S20?
- If the YP continues to consent to Section 20 Accommodation - Have they signed/re-signed the S20 Information Sheet and do they understand/have capacity to understand the content?

Refusal to utilise accommodation provided by the Local Authority.

The provision of accommodation under Section 20 is the responsibility of the Local Authority. Under some circumstances, commissioned accommodation is not utilised by YP and consideration is to be given to whether this accommodation continues to be required on an individual basis.

If a Young person is absent from their accommodation provision for an extended period or refuses to access the accommodation provided the following process will apply;

- YP views to be sought – why are they not accessing the accommodation?
- What alternatives have been explored to identify accommodation that the YP will access?
- Does the Young Person consent to being accommodated under S20?
- If the YP continues to consent to Section 20 Accommodation - Have they signed/re-signed the S20 Information Sheet and do they understand/have capacity to understand the content?

An extended period of accommodation not being appropriately accessed without due reason would be considered to be between a period of one and two weeks.

Accommodation that is not appropriately utilised for this period will be terminated.

Although the unused accommodation is terminated, the Young Person whose placement it was and who has not clearly withdrawn their consent to Section 20 will still remain 'accommodated' in principle by the Local Authority. It is envisaged that this process will reinforce engagement by the young person with their placement until consent is overtly withdrawn or discharge is approved/rejected by the Director of Childrens Services.

Young Person withdraws their consent to be accommodated under Section 20.

If a young person withdraws their consent to be accommodated under Section 20 an urgent LAC review should be brought forward to clarify this decision and ensure proportionate plans and actions are taken to safeguard and promote their welfare.

Updated Single Assessment

Should the active consent to Section 20 duties be in question as indicated previously, a Single Assessment will be triggered to consider risk, vulnerability, need and the ongoing appropriateness of Section 20 duties. The Young person should be fully advised that there is to be an updated assessment undertaken and what the assessment focus is.

This assessment will take no longer than 28 days and the Young Person will continue to be considered as a Looked After Child. Therefore the young person will retain all rights and access to services of being looked after and if that young person presents themselves as requiring accommodation during the assessment period we will of course source accommodation. Should the Young Person during this active period of Section 20 request accommodation or choose to re-engage, the Local Authority will respond accordingly as soon as is reasonably practical.

Views of all involved persons will require representation in this assessment and actively considered.

The impact and projected outcomes of discharging Section 20 accommodation duties must be clearly explored in this assessment and be given due weight in the recommendations.

As with any single assessment there will need to be a robust consideration of the forward plan for the Young Person taking into account the impact of the recommendation made.

Pathways to other services will remain the responsibility of the Discharging Team and in the event of discharging Section 20 duties cases should remain open under S17 for a period of 3 months or the YP 18th Birthday.

A young person may dispute the outcome of an assessment – this should be given credence and independent advocacy options provided.

Completion and recommendation of Single Assessment

Recommendation to discharge Section 20 duties.

Single Assessment to be escalated to Strategic Director (DCS) for a decision as to whether Section 20 duties are to be discharged. This decision will be formally recorded on LCS.

Recommendation to continue with Section 20 duties.

Single Assessment will be forwarded to Deputy Head of Service who will review the analysis and outcomes and make a determination as to actions required.

Effective August 2018

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