Agreement to Accommodate a Child

**SCOPE OF THIS CHAPTER**

This chapter focuses on key issues with regard to Accommodating a child under Section 20 (Children Act 1989), frequently referred to 'voluntary accommodation'. Recent court judgments have expressed concern about how parental agreement is obtained and the delay that has occurred in planning permanency arrangements for children.

**RELATED CHAPTERS**

[**Decision to Look After Procedure**](https://knowsleychildcare.proceduresonline.com/p_dec_lookafter.html)

[**Care Planning Procedure**](https://knowsleychildcare.proceduresonline.com/p_care_planning.html)

**AMENDMENT**

This chapter was reviewed and updated throughout in June 2024

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1. **Introduction**

Section 20 places a responsibility on the Local Authority to provide accommodation for a child in need in their area who appears to need accommodation because there is no person with parental responsibility for them, they have been lost or been abandoned and the person who has been caring for the child is prevented permanently or temporarily from providing them with suitable accommodation or care.

There are different circumstances where S20 can and should be considered for children. For all circumstances it is important that the person with Parental Responsibility is provided with the right information and has the capacity to provide consent to their child becoming accommodated subject to S20.

There have been a number of prominent cases which have highlighted issues regarding how S20 is being used and how consent has been obtained.

Where there are any concerns or doubts in respect of whether the parent or persons with Parental Responsibility has capacity, consent cannot be obtained and an assessment is required to ensure that this issue is fully addressed.

Where the parent or persons with Parental Responsibility do have capacity, it is expected that every effort is made to ensure that the parents understand what they are consenting to and the full range of choices available to them and the consequences of agreeing to or refusing S20. This means that the parent or persons with Parental Responsibility should be in possession of all the information and facts.

It is important that all alternative options are explored for the child to support them remaining with friends or family where this is deemed appropriate.

The circumstances surrounding S20 accommodation may be due to the parent or those with parental responsibility being unable or unwilling to care for their child or it may relate to safeguarding concerns and S20 is being recommended as an interim arrangement. Whatever the circumstances the parents should be encouraged to seek legal advice prior to agreeing to S20 accommodation for their child.

The length of S20 accommodation should also be considered. The focus for all children accommodated under S20 is one of reunification where it is appropriate for this to happen and to ensure that permanence planning is evidenced throughout involvement. Parents should be clear that they have the right to say no to S20 and also to revoke consent at any time. However, they should also be aware that S20 should not be a long term option and that the focus would be on children being placed within their family at the earliest opportunity. There are some exceptions to this and these will be addressed within this guidance.

The following guidance must be followed where S20 is being requested or considered and Appendix 1 and 2 should be completed for all children who become accommodated subject to S20.

1. **Legislation**

Section 20 of the Children Act 1989 states that

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

(a) there being no person who has parental responsibility for him;

(b) his being lost or having been abandoned; or

(c) the person who has been caring for him being prevented (whether or not permanently, and for whatever reason) from providing him with suitable accommodation or care.

(2) Where a local authority provide accommodation under subsection (1) for a child who is ordinarily resident in the area of another local authority, that other local authority may take over the provision of accommodation for the child within—

(a) three months of being notified in writing that the child is being provided with accommodation; or

(b) such other longer period as may be prescribed

(3) Every local authority shall provide accommodation for any child in need within their area who has reached the age of sixteen and whose welfare the authority consider is likely to be seriously prejudiced if they do not provide him with accommodation.

(4) 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.

(5) A local authority may provide accommodation for any person who has reached the age of sixteen but is under twenty-one in any community home which takes children who have reached the age of sixteen if they consider that to do so would safeguard or promote his welfare.

(6) 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.

(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—

(i) provide accommodation for him; or

(ii) arrange for accommodation to be provided for him, objects.

(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.

(9) Subsections (7) and (8) do not apply while any person—

(a) who is named in a child arrangements order as a person with whom the child is to live;

(aa) who is a special guardian of the child; or

(b) who has care of the child by virtue of an order made in the exercise of the High Court’s inherent jurisdiction with respect to children, agrees to the child being looked after in accommodation provided by or on behalf of the local authority.

(10) Where there is more than one such person as is mentioned in subsection (9), all of them must agree.

(11) Subsections (7) and (8) do not apply where a child who has reached the age of sixteen agrees to being provided with accommodation under this section.

1. **S20 Arrangements for Specific Groups of Children and Young People**

1. Unaccompanied Asylum Seeking Children / Young People

Children and young people who enter the UK without a parent or person with parental responsibility are accommodated to ensure that they have the appropriate care and support. An unaccompanied asylum seeking child is defined as a young person under the age of 18 years of age making an application for asylum in their own right and who have no adult relative or guardian to turn to in the UK. These children and young people are assessed and supported and their needs should be considered as paramount. For the majority of Unaccompanied Asylum Seeking Children, they would become looked after and provided for under S20. Where possible the views of the parents should be sought and the child or young person supported in respect of maintaining contact with their family however their immigration status will be addressed via their Asylum application and in the interim they would be supported as a child we look after.

1. Shared Care Arrangements

The Local Authority has a duty to provide support as part of the local offer to children with a disability where the parents require support to meet the child’s individual needs. Depending on the needs of the child the shared care arrangements may be provided under S17 or S20 of the Children Act 1989.

1. Homelessness – 16 and 17 year olds

Young people aged 16 and 17 years of age may present as homeless for a variety of reasons. An assessment should be undertaken to establish whether the young person is in need and what support they require. There is an express duty to accommodate homeless children (S20(1)) and S20(3) includes an additional duty towards 16 and 17 year olds.

The Southwark Judgement made by the Law Lords in May 2009 places an obligation on Children’s Services to provide accommodation and support to homeless 16 and 17 year olds. This judgement requires the Local Authority to consider whether the young person requires accommodation where their family support networks have broken down irretrievably. The SW is required to explore the reasons for the young person becoming homeless and record contemporaneously as part of the ongoing assessment discussions with the young person regarding the option of S20 accommodation and what this would mean for them, including care leavers support. Where the young person is in receipt of all the information and declines S20 this should also be carefully recorded.

1. Person with parental responsibility has been admitted to hospital or has been arrested / received short custodial sentence.

There may be occasions where the parent with parental responsibility is unable to care for their child for a period of time, for example being admitted to hospital or is in custody and there is no other family member or friend who can support the care arrangements at that time. It is important that all extended family members and friends are explored prior to S20 arrangements being agreed.

1. Parent with Parental Responsibility feels the child is beyond their parental control

There may be occasions where parents feel that they are no longer able to care for their child for a variety of reasons. It is important that support is provided to parents at the earliest opportunity where concerns are raised regarding a child’s behaviour or actions and that this support addresses the underlining issues and reasons. Where a parent is seeking for their child to become accommodated, it is important that all alternative care options are explored in the first instance. Alternative support arrangements are also important and every effort to work with the family to maintain the child in their birth or extended family. Where the Local Authority agrees to accommodate a child or young person the focus should be on a time limited period of support with a focus on a reunification plan being in place.

1. There are safeguarding concerns and it is assessed that the child should not reside with their parent.

Where the Local Authority identifies safeguarding concerns and are placing restrictions in respect of the care of the child or contact with their parent, S20 should be considered to ensure that the child or young person is receiving safe and consistent care. Under such circumstances the arrangements should be time limited and further discussions should be held to consider the appropriate arrangements for the child or young person and whether legal action is required. Please note that even where the parent consents to S20 the social work must consider whether it is proportionate and necessary for the child to be placed in foster care and whether proceedings should be issues rather than accommodating by agreement.

1. **What to Consider in Respect of S20**

* Does the parents have capacity to agree?
* Does the parent understand what it is they are being asked to agree to?
* Has the parent been advised that they are able to refuse S20 accommodation and that they have a right to later object and seek the return of the child **at any time**?
* Has the consent been given freely and not under duress?
* The prospect of Court proceedings has not been used as a threat to compel a parent to agree to S20.
* The parent has been informed of the possibility of care proceedings but not in a way that is placing pressure on them to agree?
* Where the parent consents, the SW should consider whether it is proportionate and necessary for the child to be placed in foster care, including Regulation 24 AND whether proceedings should be issued rather than accommodating by agreement.
* Parents have been encouraged to seek independent legal advice.

All of the relevant information must be recorded in ICS and should be completed contemporaneously or as soon after the event as possible. All records should be up to date and the chronology updated to evidence the work completed to satisfy the requirements in respect of S20.

1. **Consent**

The social worker should obtain consent from each person who has parental responsibility for the child or young person.

 If one parent consents and the other cannot be contacted for good reason, a short period of s20 whilst efforts are made to locate and contact the other parent maybe required. The SW must record all efforts to contact the other person with parental responsibility and the outcomes of these. Support can be obtained via extended family members, friends, the benefits agency, DWP and with permission via social media sites.

 As stated, it is important that the SW considers the parents’ capacity to agree or consent to S20.

Capacity to agree

This is a very important consideration:

1. **Every social worker obtaining consent to accommodation of a child from a parent with PR is under a personal duty to be satisfied that the person giving consent does not lack the required capacity;**

1. **The social worker must actively address the issue of capacity, take into account all the prevailing circumstances and must consider the questions raised by Mental Capacity Act 2005, section 3 and in particular the parent’s capacity to use and weigh all relevant information;**
2. **If the social worker has doubts about capacity, no further attempt should be made to obtain consent on that occasion. Advice should be sought from the social work team manager.**

If there is any doubt about a parent’s functioning, capacity to understand, mental health issues impairing their judgment, learning difficulties or disabilities, language issues, then s20 should not be used and legal advice should be sought.

Section 3 Mental Capacity Act 2005

A person is unable to make a decision for himself in respect of S20 if they are unable to :-

1. Understand the information relevant to the decision (that the child will not be with them, that the child will be in a foster placement, including Regulation 24 arrangements, what foster care means, that they have the right to say yes or no, and that they have the right to change their mind, how long it would be for, what might happen next e.g.: what would happen if they say no, what would happen if they say yes)
2. To retain that information (at least for a long enough period to make the decision properly)

1. To use or weigh that information as part of the decision-making process

1. To communicate the decision

A person is entitled to have help and an explanation provided in a way that is appropriate for them.

*Re S (Child as Parent: Adoption: Consent) [2017] EWHC 2729 (Fam*) – sets out the specific things a parent has to understand to have capacity to agree to section 20. These are:
* **That the child will be staying with someone chosen by the local authority, probably a foster carer;**

* **That the parent can change their mind about the arrangements, and request the child back from accommodation at any time;**

* **That the parent will be able to see the child.**

1. **Removal from Section 20**

A person who has PR is legally able to remove a child from section 20 accommodation at any time. The parents can be asked to give a notice period or a pause to allow a Court order to be obtained but they do not have to.

 Although the Local Authority may consider that harm would come to a child if the child was removed does not block the parents power to remove. In that situation, the Local Authority would need to seek an urgent order from the Court.

 NB: the power to remove does not apply if another person has an SGO or Child Arrangements Order and that person agrees to s20 continuing, or the child is over 16 and agrees to accommodation continuing.

1. **Timescales**

The Court and CAFCASS are very mindful of the issue of S20 drift and claims have been made against Local Authorities where it is considered that there has been drift and delay.

 Social Workers, Managers and IRO’s must be very alive to the issue of drift within section 20. In general, drift occurs without a clear and time-sensitive plan for the child’s longer-term future being implemented.

 The issues that need regular consideration are:

* Should this child be going home or to other relatives?

* What would need to happen in order to make that work?

* What assessments/information are needed if we can’t make those decisions yet, how are we going to get them and when?

* Is this a case that is suitable for section 20, or should it be before the court?

1. **Documentation**

For all children and young people who are being considered in respect of S20 accommodation the social worker must complete the forms located at Appendix 1 and Appendix 2.

The guidance outlined above should be considered during all assessments and discussions with the parent and person with parental responsibility.

The documents must be uploaded to ICS prior to the child or young person becoming looked after.

1. **Legal Planning Meeting**

For all children becoming looked after subject to S20, they should be presented to a Legal planning. There may be emergency circumstances where authorisation cannot be obtained before the child becomes looked after and in these circumstances, the next available Legal Gateway Panel should be attended.

**APPENDIX 1**

**PARENTAL AGREEMENT TO VOLUNTARY ACCOMMODATION**

**OF CHILD**

**PURSUANT TO s20 CHILDREN ACT 1989**

**Child’s Details**

|  |  |  |  |
| --- | --- | --- | --- |
|   | Child 1 | Child 2 | Child 3 |
| Name |   |   |   |
| DOB |   |   |   |
| Address |    |   |   |
| Primary Carer |   |   |   |

**Mother’s Details**

|  |  |
| --- | --- |
| Name |  |
| DOB |  |
| Address |  |

**Father’s Details**

|  |  |
| --- | --- |
| Name |   |
| DOB |   |
| Address |    |
| Parental Responsibility | Y/N |

|  |  |
| --- | --- |
| Name of professional seeking consent |   |
| Role/job title |   |
| Date, place and time at which the form has been completed and signed |   |

**Proposed family time arrangements**

|  |
| --- |
|  |

**Consent of Mother**

I, ……………………………………………………………………………………. (mother) agree to

………………………………………………………………………………………..(child) being accommodated by Knowsley Borough Council.

I understand that he/she will be placed in accommodation provided by the local authority until he/she is returned to my care or other plans are made.

I understand ­­­­that I have parental responsibility for the child. Therefore, I may withdraw consent at any time and remove the child from accommodation provided by the local authority.

I have been offered the opportunity to obtain independent legal advice before signing this form.

I have obtained legal advice/I do not wish to obtain legal advice (*please delete as* *appropriate*).

Signed……………………………………………………

Dated this…………………….. day of ……………………………….. 20..

**Consent of Father (required if father has PR)**

I, …………………………………………………………………… (father) agree to

……………………………………………………………………………… (child) being accommodated by Knowsley Borough Council.

I understand that he/she will be placed in accommodation provided by the local authority until he/she is returned to my care or other plans are made.

I understand ­­­­that I have parental responsibility for the child. Therefore, I may withdraw consent at any time and remove the child from accommodation provided by the local authority.

I have been offered the opportunity to obtain independent legal advice before signing this form.

I have obtained legal advice/I do not wish to obtain legal advice (*please delete as appropriate*).

Signed …………………………………………………………………………..

Dated this…………. day of ………………………………………… 20..

**Consent of Child/ Young Person**

I, ……………………………………………………………………………………. (Child/Young Person) agree to being accommodated by Knowsley Borough Council.

I understand that I will be placed in accommodation provided by the local authority until I return to my care family or other plans are made.

I understand ­­­­that I may withdraw consent at any time and leave the accommodation provided by the local authority.

I understand what coming into care means and that I will be a Child In Care of Knowsley Borough Council.

Signed……………………………………………………

Dated this…………………….. day of ……………………………….. 20..

**APPENDIX 2**

**S20 ACCOMMODATION REQUEST**

**Section 20 ASSESSMENT**

**TO BE COMPLETED IN ALL CASES WHERE PARENTAL CONSENT TO VOLUNTARY ACCOMMODATION IS OBTAINED**

**Child(ren)’s Details**

|  |  |  |  |
| --- | --- | --- | --- |
| **Basic Details**  | **Child 1** | **Child 2** | **Child 3** |
| Full Name |   |   |   |
| DOB |   |   |   |
| Age |   |   |   |
| Gender  |   |   |   |
| Main Address |   |   |   |
| Temp / Placement Address |   |   |   |

**Document / Assessments Completed**

|  |  |  |  |
| --- | --- | --- | --- |
| **Document / Assessment** | **Has this been Completed?** | **Date updated / last completed**  | **Comments**  |
| Chronology |   |   |   |
| Genogram |   |   |   |
| Child and Family Assessment |   |   |   |
| Parenting Assessment |   |   |   |
| Viability Assessment |   |   |   |
| Family Group Conference |   |   |   |
| GCP2 |   |   |   |
| Risk Assessment  |   |   |   |
| Capacity / Cognitive assessment |   |   |   |
| Consent to gather and share information  |   |   |   |

**The following should be completed in respect of an individual child or a sibling group where S20 is being considered.**

**Background History – brief summary of involvement including Early Help.**

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1. **Why is immediate removal necessary to protect the child?**

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1. **Are there any alternatives to voluntary accommodation? If so, why are these options not appropriate?**

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| --- |
|  |

1. **Have you clearly explained to the parents the reasons that you consider immediate removal of the children is necessary.**

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|  |

1. **Please outline your reasons as to why an application for an EPO or ICO is not being made**

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1. **Is there a plan to issue Care Proceedings?**

Yes / No

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1. **Has the child(ren) been presented to Legal Gateway Panel and if not, what date will this happen?**

NB this document and signed consent will be required by LGP

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1. **Is the period of accommodation in respect of S20 shared care arrangements?**

Yes / No

|  |
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1. **Capacity**

1. **Does the mother have capacity? Yes/No**

**Please explain why, in your personal view, the mother does/does not have capacity.**

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| --- |
|  |

1. **Does the father have capacity? Yes/No**

**Please explain why, in your personal view, the father does/does not have capacity**

|  |
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|           |

1. **Does the mother understand that the local authority intends for the child to be accommodated until he/she is returned to her care or alternative plans have been made?**

**NB if the young person may be 18 years of age in this period of time, transition to adulthood must be considered as part of the young person’s plan.**

Yes/No

If no, reason why this has not been explained

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| --- |
|  |

1. **How long is the mother asking for the child(ren) to be accommodated**

|  |
| --- |
|  |

1. **Does the father understand that the local authority intends for the child to be accommodated until he/she is returned to his care or alternative plans have been made?**

**NB if the young person may be 18 years of age in this period of time, transition to adulthood must be considered as part of the young person’s plan.**

Yes/No

If no, reason why this has not been explained

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|  |

1. **How long is the father asking for the child(ren) to be accommodated**

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| --- |
|  |

1. **Voice of the Child(ren) – child(ren)’s wishes, feelings and understanding**

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| --- |
|  |

1. **Have you clearly explained to the mother that she may withdraw consent at any time and that the local authority must immediately return the child, or issue proceedings and ask the court to make an order so that the child may remain looked after?**

Yes/No

If no, reasons why

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| --- |
|  |

1. **Have you clearly explained to the father that he may withdraw consent at any time and that the local authority must return the child, or issue proceedings and ask the court to make order so that the child may remain looked after?**

Yes/No

If no, reasons why

|  |
| --- |
|  |

1. **Parents Presentation**

1. Please briefly outline how the mother and/or father present and whether you have any concerns as to their physical or psychological state. Please confirm if their physical or psychological presentation may impact upon his or her ability to provide informed consent.

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| --- |
|               |

1. **Legal Advice**

Mother

1. **Has the mother been offered the opportunity to obtain independent legal advice?** Yes/No
2. **Was legal advice obtained?** Yes/No

**If yes, please provide solicitors details (if known)**

|  |
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|  |

1. **If not, please record any reasons given for not obtaining legal advice**

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| --- |
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Father

1. **Has the father been offered the opportunity to obtain independent legal advice?**
2. **Was legal advice obtained?** Yes/No

**If yes, please provide solicitors details (if known)**

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| --- |
|  |

1. **If not, please record any reasons given for not obtaining legal advice**

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|  |

1. **Other Support**

Mother

1. **Did the mother have any other support available to her (e.g. family members/friends)? Please provide details**

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| --- |
|  |

1. **Was she given the opportunity to make contact with any family members/friends prior to signing the form?**

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|  |

Father

1. **Did the father have any other support available to him (e.g. family members/friends)? Please provide details**

|  |
| --- |
|  |

1. **Was he given the opportunity to make contact with any family members/friends prior to signing the form?**

|  |
| --- |
|  |

1. **Cases with a foreign element / NRPF / parent outside the country**

Mother

1. **Does the mother speak English?** Yes/No

**If no, what language does the mother speak?**

|  |
| --- |
|  |

1. **Was an Interpreter provided?** Yes/No

**If no, what are the reasons?**

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| --- |
|  |

1. **Did the Interpreter read the consent form to the mother before she signed the same?** Yes/No
2. **Has a copy of the consent form been provided to the mother in her own language?** Yes/No

Father
3. **Does the father speak English?** Yes/No

**If no, what language does the father speak?**

|  |
| --- |
|  |

1. **Was an Interpreter provided?** Yes/No

**If no, what are the reasons?**

|  |
| --- |
|  |

1. **Did the Interpreter read the consent form to the mother before she signed the same?** Yes/No
2. **Has a copy of the consent form been provided to the father in his own language?** Yes/No

**N.B: Each parent should be asked to write on the form, in their own language, the following:**

**“I have read this document and agree to its terms.”**

**Completed by: ……………………………………..**

**Role: ……………………………………………………**

**Signed: …………………………………..**

**Dated: ……………………………………..**