



coram

better chances
for children
since 1739

The Door Is *Still* Closed

Summary of findings

coram



What rights and entitlements do children aged 16 and 17 have when they become homeless?

Legislation governing the legal entitlements of homeless 16- and 17-year-olds is complex, as is navigating the roles and responsibilities of housing and children's services. Getting it right for homeless children is important, because which legislation 16- and 17-year-olds are housed under has long term implications, affecting the support they will be entitled to both before and after they turn 18, potentially until they are 25.

Assessment

16- and 17-year-olds presenting to their local authority as homeless should receive a 'child in need' assessment under section 17 of the Children Act 1989. This applies no matter whether they present as homeless to housing or children's services. The vast majority of children assessed as being unable to live with their family will be children in need.

Duties

There are two key pieces of legislation that set out duties towards homeless 16- and 17-year-olds: the Children Act 1989 and the **Housing Act 1996**.

Local authority children's services have a duty under section 20 of the Children Act 1989 to accommodate children under the age of 18 who are unable to live with their families. A child accommodated under section 20 becomes a 'looked after child' and the local authority takes on the role of a corporate parent.

Case law and statutory guidance is clear that this should be the default position. There will be very few circumstances where it is appropriate to provide accommodation to children under either section 17 of the Children Act 1989 (which would result in no leaving care support offered to children after they turn 18) or under Part VII of the Housing Act 1996, which sets out local authority duties to prevent and relieve homelessness. The Housing Act 1996 establishes that 16- and 17-year-olds are in priority need for support from housing services if they are homeless.

The **2009 Southwark Judgement**¹ clarifies that children's services have the primary duty to homeless 16- and 17-year-olds, and this has been confirmed in statutory guidance issued in 2010, updated in 2018.²

"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]

The guidance is clear that the only exceptions should be where they are found not to be a child in need, or they make an informed decision that they do not want to be provided with accommodation by children services under section 20.

Local authorities have a range of duties to look after children.³ This does not only include somewhere safe to live, but also support with education and training, health needs and preparation for adulthood. Looked after children will have a social worker who leads on care planning. Looked after children are entitled to independent advocacy which supports them to communicate their wishes and feelings about the care they receive to their local authority (Children's Commissioner, 2023).

Importantly children who have been taken into care will, depending on the amount of time they were looked after for, receive entitlements to support as a care leaver until the age of 25, including a dedicated Personal Adviser, financial support with education and training, and access to an independent advocate.⁴ Care leavers also have additional entitlements to support under Homelessness guidance (MGCLG, 2018).

In response to concerns about the quality of accommodation older looked after children were placed in, legislation was updated so that from 2023 looked after children aged 16 and 17 can only be placed in supported accommodation that is regulated and inspected by Ofsted.⁵

Executive Summary

This report focuses on the rights, needs and experiences of 16- and 17-year-old children who present themselves to their local authority as homeless and are all too often unable to access the care and support that they are entitled to.

The report follows the publication ten years ago of *The Door is Closed* (Coram, 2014) which highlighted that some children were being allowed to become or remain homeless and being left exposed to potential risk because local authorities were too often falling short in their legal duties, turning children away without performing a proper assessment, or without providing the support that children need. Safeguarding concerns were being missed, while children's wishes and feelings were being ignored and their experiences disbelieved. They were left unable to access advocacy, and denied a reasonable route to challenge the decisions that are taken about them.

Disappointingly, this report finds that a decade on, the door is *still* closed to the support and security that vulnerable 16- and 17-year-old children presenting as homeless need.

Statutory guidance and case law are clear that homeless 16- and 17-year-olds should receive a child in need assessment under section 17 of the Children Act 1989 and subsequently if found in need, owed a duty to be housed under section 20 of the same Act. The latter entitles them to the care and protection afforded to children in care until 18-years-old and then to support as a care leaver until the age of 25.

Despite the Southwark Judgement (2017) court ruling that denial of assessments by local authorities is unlawful (Essex 2019), a host of subsequent reports from multiple charities and the Children's Commissioner (2023) show that many homeless 16- and 17-year-olds continue to be left unassessed, and unsupported.

Our report brings first-hand testimony of homeless 16- and 17-year-olds along with data and expert insight from our advocacy and legal services as well as our youth housing rights ambassadors to look at what if anything has changed in the causes and consequences for young people since our report a decade ago.

Our findings identify seven key barriers to homeless 16- and 17-year-olds receiving the entitlements and support they deserve. We show that national data on homeless 16- and 17-year-olds is poor and that early support to families could help prevent many from becoming homeless as a result of family breakdown in the first place.

For those that do become homeless, a large number are not assessed or are not housed under the right legislation. Many of these vulnerable 16- and 17-year-olds are not being given accurate information about their rights and are forced to make uninformed decisions that will have a huge impact on their lives. Importantly, they are not being given access to an advocate, and where appropriate, legal aid. The effect of delay local authority boundaries is that of gatekeeping and 'waiting out the clock' until children turn 18 and some vulnerable 16- and 17-year-olds are housed in unsuitable and unsafe accommodation.

There of course many homeless 16- and 17-year-olds who do get the appropriate support they need, when they need it; but for all too many there has been little meaningful change over the last decade and some vulnerable 16- and 17-year-olds are continuing to be let down and it doesn't have to be this way.

Our recommendations lay out clear steps for Government, including the Department for Education, Ministry of Housing, Communities and Local Government and the Ministry of Justice, along with local authorities, to remove the seven barriers that too many encounter to ensure homeless 16- and 17-year-old children get the support they are entitled to.

Critical to this is ensuring homeless 16- and 17-year-old children are assessed and provided with the correct information to make informed decisions about the right legislation they should be housed and supported under through access to an advocate who supports them.

Our primary recommendation is for investment by government of an additional £5 million⁶ per annum to be provided to local authorities to ensure that all 16- and 17-year-olds who present to them as homeless have access to an independent advocate to provide accurate information and ensure all children get the support they are entitled to.

Now is the time for change so that a decade from now, this same report does not need to be written.

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

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

3 For more information on local authority duties, please see: <https://childlawadvice.org.uk/information-pages/local-authority-duties-to-looked-after-children/>

4 The detail of which can be found here: <https://www.gov.uk/government/publications/children-act-1989-transition-to-adulthood-for-care-leavers>

5 The Care Planning, Placement and Case Review (England) Regulations 2010 27C Prohibition on placing a child who is 16 or 17 years old in other arrangements. Available at: <https://www.legislation.gov.uk/ukSI/2010/959>

6 This £5 million has been calculated based on the 6,469 16- and 17-year-olds who presented as homeless in 2022/23 from the Children's Commissioners report (2023) and the £729 identified by the Children's Commissioner Children's Commissioner (2023b) as the average amount local authorities spent in 2022-23 per advocacy referral which equates to £4,715,901 alongside inflation rises and long term increases in the number of homeless 16- and 17- year olds.



Main findings and recommendations

This report identifies seven ways homeless 16- and 17-year-olds are facing removable barriers to having their rights upheld.

Alongside these barriers we have worked with our youth housing rights ambassadors and experts in advocacy and legal advice to develop a set of recommendations for removing these barriers which are set out after each of the seven key findings. More, and detailed recommendations can be found in the main body of the report

IT REQUIRES JUST £5 MILLION PER ANNUM TO ENSURE THAT 16 AND 17 YEAR OLDS WHO PRESENT AS HOMELESS HAVE THE ADVOCACY SUPPORT THEY NEED TO HOLD THE SYSTEM TO ACCOUNT

1 “Unknown quantity” – not being counted means no one held to account.

Through our research we identified that national data on homeless children continues to be patchy and incomplete.

Without quality data we cannot understand how well children’s needs are being met. As a result, it is difficult to see trends and hold services to account in fulfilling their obligations in law.

Make it count recommendations

- The **Department for Education** and **Ministry of Housing, Communities and Local Government** should **collect and publish local authority level data on the number of homeless 16- and 17-year-olds** who present as homeless, are assessed by children’s services and become looked after as part of their national statistics and Children’s Social care data dashboard.
- **Ofsted** should **continue to request data on 16- and 17-year-olds when inspecting children’s services** and report on the quality of support for homeless 16- and 17-year-olds as part of local authority children’s services inspections.



2 “More than just housing” – earlier support for children who are at risk of homelessness or homeless.

We found that many 16- and 17-year-olds faced harrowing family situations of physical and emotional abuse, alcohol and substance misuse, financial difficulties and mental health issues resulting in family breakdown and homelessness which itself exacerbated issues such as mental health problems.

Unfortunately, many of the children in our report were not supported and often felt that their wishes and feelings were not considered when presenting to their local authority as homeless.

The 16- and 17-year-olds we work with and spoke to as part of this report were generally in agreement that earlier, more holistic support could have helped prevent them becoming homeless.

Early support recommendations

- Local authorities and central government should investment in **early help and prevention** including evidence-based parenting, drug and alcohol misuse, and family conflict programmes, as well as **mediation** and **family group decision making** (including Family Group Conferencing) to prevent family breakdown and homelessness in 16- and 17-year-olds.
- Local authorities children’s social care and housing teams should **assess the mental health needs** of all children they come into contact with who are at risk of homelessness or present as homeless and refer to mental health support if appropriate.

3 “The wrong door” – Children are not being housed or not being housed under the right legislation and should be recognised as children who need caring for.

Our research has found the concerning reality that many children who present to their local authority as homeless and should be taken into care under section 20 of the Children Act 1989, are not housed whilst those that receive support are housed under different legislation and are left without the safeguards, care and support they are entitled to.

This gap has occurred simply because they went or were referred through the wrong door (for example their housing department rather than children’s services) in asking for help. **There must be no wrong door for children.**

No wrong door recommendations

We recommend that children are assessed under the Children Act 1989 when presenting as homeless and are housed under the right legislation to support them:

- **Local authorities** should ensure that **the default is to accommodate homeless children under section 20** in all but exceptional cases.
- **Local authorities** should ensure that **local joint working protocols** between Children’s Services and Housing and any other relevant policies and procedures should align with this principle and ensure all homeless children are assessed under the Children Act 1989 and accommodated under section 20 in all but exceptional cases.



4 “In the dark” – Children are not given the correct information about their rights and are asked to make uninformed decisions.

Children’s services hold the primary duty to homeless children aged 16 and 17, including informing them of their rights and entitlements. However, our research found many children are not given the right information about their legal rights and entitlements and wrongly advised by their local authority. This not only risked the local authorities working unlawfully, but also made children feel misled, ignored, and ultimately unsupported.

Of those young people who became homeless, they were clear that being informed about their rights and entitlements along with support from advocate was critical to ensuring they were housed and supported under the right legislation and in safe and suitable accommodation.

Access to accurate information recommendations

- **Local authorities** should ensure they have a **legally compliant Joint Protocol** between children’s services and housing services and that **all relevant staff are trained in their local Joint Protocol** and the rights and entitlements of homeless 16- and 17-year-olds. They should also **monitor the practice of providing homeless 16- and 17-year-olds with information** on their rights and entitlements through audit and supervision.
- **The Department for Education and Ministry of Housing, Communities and Local Government** should produce **child friendly version of the statutory guidance** to explain what to expect when you become homeless and the rights and entitlements of homeless 16- and 17-year-olds.
- **Local authorities** should ensure that **information they provide does not discourage children from becoming looked after**, should include information complaints processes and about how to access to advocacy.

5 “No one to stand by their side” – Children are not being given access to an advocate, and where appropriate, legal support.

We found that many children, faced with complex situations and often in crisis, are not receiving support to make decisions about what legislation to be housed under which had long lasting and profound implications for them.

Navigating the complexities of the different support options without consistent advice and advocacy left children children to make decisions which they later regretted was often overwhelming and damaging for them.

Independent advice and legal support recommendations

- **The Department for Education** should **publish the Revised National Standards and Guidance for Advocacy and Statutory Guidance on Effective Advocacy** for Local authorities and include the duty to provide independent advocacy for homeless 16/17-year-olds.
- **Local authority** advocacy contracts should include a **proactive (opt-out) offer of advocacy for homeless 16/17-year-olds**. The offer should be made when the child first gets in contact for support, as well as during the Child in Need assessment.
- **Local authorities** should **record data on how many homeless children are offered and use advocacy services**.
 - **The Ministry of Justice** should **increase civil legal aid rates** for all areas of social welfare law to account for the amount they have lost in the decades of inflation since they were set in 1996 and ensure it is index-linked to future-proof their stability.



6 “Locking the door” – Local authorities are gatekeeping, ‘waiting out the clock’ and abdicating responsibility by passing the buck across boundaries.

A decade on from The Door is Closed report, we found that many children are still being denied their rights and entitlements due to delays, and unlawful blocking of access to homelessness support (‘gatekeeping’) and local authorities ‘waiting out the clock’ until a child turns 18 whereby they have less responsibility for the young person if they are not deemed a care leaver.

We found instances where local authorities were continuing to abdicate responsibility and trying to pass the buck when disputes came up between two local authorities on who should support a child.

Timely assessment and support recommendations

- **Local authority** children’s services should have the **resources to complete assessments** within set timescales and offer support where and when children present ahead of resolving any disputes on local authority responsibility.
- **Ofsted** should review joint working protocols as part of their inspections of local authority children’s services to ensure that they align with statutory duties including timeliness of assessments.
- **Local authorities** should provide **support for children irrespective of their residence** status and ahead of resolving any disputes on local authority responsibility.

7 “A shelter in name only” – Children are being housed in unsuitable and unsafe accommodation, with their needs not taken into account and their voice not listened to.

As highlighted ten years ago, even though legislation and statutory guidance is clear that accommodation for 16- and 17-year-olds must be suitable and safe, we found that children are still being placed into unsuitable and often unsafe accommodation, including adult hostels, unregulated or under-supervised provision, either whilst waiting for the local authority to accommodate them, or when they were eventually accommodated. This had a damaging impact on children who were often escaping an unsafe and abusive home life.

It is critical that when 16- and 17-year-olds do present as homeless, they are given a safe and suitable home in regulated accommodation:


Safe and sufficient recommendations


- **Local authorities** should ensure they have **sufficient safe and suitable accommodation for homeless 16- and 17-year-olds** with these needs included in their sufficiency strategies.
- **Local authorities** should place all children aged 16 and 17 in **quality accommodation regardless of their care status**.
- **The upcoming cross-Government’s** strategy to end homelessness should ensure **increased investment** in prevention, support and affordable and appropriate accommodation for homeless children aged 16- and 17-year-olds.





coram


better chances
for children
since 1739

 coram.org.uk

 Coram

 Coramsince1739

 coram.uk

 CoramSince1739

 Coram

**“FEELING SAFE AND
FEELING HAPPY
– THAT’S NOT TOO
MUCH FOR ANY CHILD
TO ASK FOR...”**

Coram Campus
41 Brunswick Square
London WC1N 1AZ
Tel: 020 7833 5792

Registered Charity no: 312278
© 2024 Coram

INVESTORS IN PEOPLE
We invest in people Gold