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ANNEXE A

Looked After Children Policy and Procedure

1. Purpose

The purpose of this policy and procedures document is to provide guidance to staff involved in the process of deciding whether the local authority should look after a child/young person. This policy document should be read in conjunction with departmental policy on kinship care and the joint protocol for assessing the needs of young people who request assistance with accommodation.

2. Scope

This document aims to provide guidance to staff on the circumstances when a child may need to be looked after by the local authority whether under voluntary arrangements under Section 20 or on a compulsory basis under Section 31/38 Care Orders. This policy and procedures guidance does not attempt to address the circumstances when a child or young person is admitted to care via police protection or by an emergency protection order or is remanded to local authority accommodation nor arrangements for providing a child with respite care. For guidance on these matters, see separate policy and procedures guidance.

3. References

The Children Act 1989 and associated regulation and guidance

Principles and Practices in regulation and Guidance (DOH)

Human Rights Act 1998

4. Powers and Duties

The following general powers and duties apply:

Children in Need

The Children Act placed a general duty on the Local Authority to safeguard and promote the welfare of children within their area who are in need and so far as is consistent with their welfare, to promote the upbringing of children by their families by providing a range and level of services appropriate to their needs.

Section 17(1)) CA 1989

General duty of local authority in relation to children looked after by them.

- (1) In this Act, any reference to a child who is looked after by a local authority is a reference to a child who is-
 - (a) in their care; or
 - (b) provided with accommodation by the authority in exercise of their functions (in particular those under this Act) which stand referred to their social services committee under the Local Authority Social Services Act 1970.
- (2) In subsection (1) "accommodation" means accommodation which is provided for a continuous period of more than 24 hours.

Accommodation of Children

Local authorities shall provide accommodation for any child in need in their area who appears to them to require it as a result of there being no person with parental responsibility for him, or because he is lost and abandoned, or because the person who has been caring for him is prevented from providing suitable accommodation or care

(Section 20 (1) CA 1989)

Every local authority shall provide accommodation for any child in need within their area who has reached age sixteen and whose welfare would be seriously prejudiced if they do not provide him with accommodation. (Section 20 (3) CA 1989)

The authority may provide accommodation for any child within their area (even though a person with parental responsibility for him is able to provide him with accommodation) if they consider that to do so would safeguard or promote his welfare.

(Section 20 (5) CA 1989)

An authority may provide accommodation for any child within their area (even though the 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 (4) CA 1989)

Before providing accommodation under this section, a local authority shall, so far as is practicable and consistent with the child's welfare-

- (a) ascertain the child's wishes regarding the provision of accommodation
- (b) give due consideration(having regard to his age and understanding) to such wishes of the child as they may be able to ascertain.

(Section 20 (6) CA 1989)

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

(Section 20 (7) CA 1989)

Section 20(3) of the Act gives local authorities a duty to provide accommodation for a child age 16 and 17 years if the authority considers that his welfare will be seriously prejudiced without such a service

A local authority may provide accommodation for any young person who has reached the age of sixteen but is under twenty-one if they consider that to do so may safeguard and promote his welfare, even if their parent objects.

(Section 20 (5)-(11) CA 1989)

The local authority shall make provisions for the reception and accommodation of children who are removed or kept away from home under Part V (Sections (43-52) CA relating to the protection of children.

Every local authority shall receive and provide accommodation for, children-

- (a) in police protection whom they are requested to receive under Section 46(3)(f)
 - (b) whom they are requested to receive under Section 38(6) of the Police and Criminal Evidence Act 1984
 - (c) who are-
 - (i) on remand under Section 23(1) of the Children and Young Person's act 1969; or
 - (ii) the subject of a supervision order imposing a residence requirement under Section 12 AA of that Act
- and with whom they are a designated authority

(Section 21 (1)-(2) CA 1989)

Before making any decisions with respect to the child whom they are looking after, or proposing to look after, a local authority shall, so far as is reasonably practicable, ascertain the wishes and feelings of:

- (a) the child;
 - (b) his parents;
 - (c) any person who is not a parent but who has parental responsibility for him; and
 - (d) any other person whose wishes and feelings the authority consider to be relevant
- regarding the matter to be decided. (Section 22(4) Children Act 1989)

Provision of accommodation and maintenance by local authority for children whom they are looking after

1. It shall be the duty of any local authority looking after a child-
 - (a) when he is in their care, to provide accommodation for him; and
 - (b) to maintain him in other respects apart from providing accommodation for him.

Duty to place with relatives and friends

Any local authority looking after a child shall make arrangements to enable him to live with –

- (a) A person falling within subsection (4); or
- (b) A relative, friend or other person connected with him.

Unless that would not be reasonably practicable or consistent with his welfare.

(Section 23 (6) Children Act 1989)

5. Principles

There are unique advantages for children in experiencing normal family life in their own birth family and every effort should be made to preserve the child's home and family links.

Although some basic needs are universal, there can be a variety of ways of meeting them.

A child's age, sex, health, personality, race, culture and life experiences are all relevant to any consideration of needs and vulnerability and have to be taken into account when planning or providing help.

The decision to look after a child or young person should be based on an assessment of need.

If young people cannot remain at home, placement with relatives and friends should be explored before other forms of placement are considered.

If young people have to live apart from their family of origin, both they and their parents should be helped to consider alternatives and contribute to the making of an informed choice about the most appropriate form of care.

Admission to public care by virtue of a compulsory order is in itself a risk to be balanced against others. So also is the accommodation of a child by a local authority.

When out of home care is necessary, active steps should be taken to ensure speedy return home.

Siblings should not be separated when in care or when being looked after under voluntary arrangements, unless this is part of a carefully considered plan based on the child's needs.

Continuity of relationships is important, and attachments should be respected, sustained and developed.

Change of home, caregiver, school, or social worker almost always carries some risk to the child's development and welfare.

Young people should not be disadvantaged or stigmatised by action taken on their behalf.

Corporate parenting is not "good enough" on its own. Every child and young person needs at least one individual to whom he/she is "special", who retains responsibility over time, who is involved in plans and decisions and who has ambitions for the child's achievement and full development.

Young people's wishes must be elicited and taken seriously.

In most instances, children's needs will be best met by placement in a family setting.

Children and young people should not be admitted to local authority accommodation for financial reasons alone.

A child's admission to accommodation should be planned, and follow a period of introductions, in most cases.

If a child needs to be accommodated, all reasonable steps should be taken to place him or her with a relative or friend so long as this is consistent with her/his welfare.

Children/young people should not remain in local authority accommodation any longer than is necessary for the promotion of their welfare. If a child/young person is looked after, arrangements should be made to effect his/her discharge from public care at the earliest opportunity, so long as this is consistent with her/his welfare.

6. Policy

The department will provide a range of services to support families to retain the care of their children, so long as this is consistent with the child's welfare.

The local authority should only look after children when there is no other equally satisfactory way of promoting their welfare or protecting them from harm. The decision to look after a child or young person or to refuse a request for a child/young person to be looked after should be based on a full assessment of the child's needs and circumstances.

If young people cannot remain at home, placement with relatives and friends should be explored before other forms of placement are considered.

Options for the child to live with a relative or friend on a private basis should be rigorously explored before consideration is given to admitting a child to public care. In some **exceptional** circumstances, the department may make payments from Section 17 funds to support a child's placement with relatives or friends for a time-limited period. (See department policy on kinship care for fuller details)

This authority considers that the primary responsibility for the maintenance of children resides with their parents, their extended family and the state benefit system. Whilst it is recognised that there are situations when carers may need financial assistance to care for a relative's child, this authority will require evidence that a child cannot be maintained from parental contributions, extended family resources or state benefits before considering the payment of any form of allowance.

Children should not usually be looked after for financial reasons alone. In those cases where longer term funding is required to promote the welfare of a child placed with a relative, full and active consideration should be given to paying a residence order allowance rather than looking after a child/young person.

The department will offer services in a way that recognises the right and need of young people to seek advice, support and assistance in their own right. This will include supporting them through making their decisions and enabling them to learn from the outcomes.

The department will aim to provide all services in full partnership with parents and other significant individuals. In making decisions about whether to provide accommodation, the department will balance the need to take action to safeguard a child against the requirement not to interfere unnecessarily in family life -thereby recognising the inherent tension between Article 3 and Article 8 of the Human Rights Act.

The department will work pro-actively to make arrangements to discharge looked after children from local authority care at the earliest opportunity, so long as this is consistent with their welfare.

In operating this policy and procedure, the authority will have full regard to the principles outlined at Section 3.

7. Procedures

Looking After Children under full or interim care orders and emergency protection orders.

All children who are subject to these legal orders to the local authority are looked after children.

Assessment

The decision to seek a legal order in respect of a child follows from an assessment that:

- (a) the child concerned is suffering, or is likely to suffer, significant harm and
- (b) that the harm, or likelihood of harm is attributable to:
 - (i) the care given to him or likely to be given to him,
 - (ii) or she/he is beyond parental control.

The conclusion that the above “threshold criteria” are met may be reached in the process of completing child protection investigations or at a later stage of departmental involvement.

The assessment of children who are suffering or likely to suffer significant harm should be given high priority in accordance with the department's eligibility criteria (See TROVE for details) The assessment will follow the department's assessment framework format.

Staff conducting assessments should notify their line manager immediately if they conclude, at any stage, that the threshold criteria for the making of an order has been met. Line managers should respond to this information by considering:

- The need to take emergency protective action
- The need to initiate legal proceedings.

Decision making

In most circumstances, if time allows, the decision to seek to initiate care proceedings, other than to seek an emergency protection order, will usually be considered at one of the following meetings.

- A child protection case conference
- A family support meeting
- A statutory review meeting

Departmental legal advisors should always be consulted at the earliest opportunity. In the process of reaching a conclusion about the need for legal action, departmental staff will also need to consider whether the child's needs can be met by her/his placement in accommodation under Section 20 arrangements outlined overleaf.

The decision to initiate care proceedings in respect of a child/young person should be authorised by the Service Manager (Fieldwork) in accordance with the department's scheme of delegation.

Provision of accommodation for a child under Section 20

The need to consider whether to look after a child or young person may arise in a range of circumstances:

- A child's parent requests the local authority to accommodate the child
- A young person age 16+ requests that the local authority provides him/her with accommodation.
- The department becomes aware that a child has been lost, abandoned, or their parent is prevented from providing suitable accommodation.

Assessment

The assessment of children who present as possibly needing to be looked after will be given high priority in accordance with the department's priority matrix.

In order to ensure that the decision to look after a child is in the child's best interests, it should, **wherever possible**¹, take place only after a Core Assessment has been completed. The core assessment should address all of the Assessment Framework domains, take account of the wishes and feelings of the child, her/his parent and significant others and consider the range of factors outlined below in the section entitled " Factors to take account when considering the need to look after a child or young person.

Decision making

The decision to look after a child/young person should be given full and careful consideration in advance of the child/young person being admitted to accommodation. Unless the child/young person needs to be admitted in an emergency, this decision should normally be taken at a planning meeting.

If a child is looked after in an emergency, then a planning meeting should be convened as soon as possible (usually within 5 days).

The planning meeting should always involve the parents, carers, and child/young person in addition to family placement workers, residential staff and other relevant professionals. The factors that were taken into account when deciding whether to look after a child or young person should be carefully recorded.

Except in an emergency, the decision to receive a child/young person into accommodation should be authorised by the Service Manager (Fieldwork) in accordance with the department's scheme of delegation.

Accommodation of young people age 16+ under Section 20 arrangements contrary to their parent's wishes.

Legal advice should be sought immediately, in all circumstances where consideration is being given to admitting a young person (age 16+) to accommodation (or maintaining her/him in accommodation) contrary to their parent's wishes. Children below age 16 cannot be placed in accommodation without parental consent.

¹ So long as this is consistent with the child's welfare

Accommodation of children who are lost or abandoned, or whose parents are deceased. (Including unaccompanied asylum seeking children below age 16)

The department has a duty to provide accommodation for children who present in these circumstances. However, it may be unsatisfactory for a child/young person to remain in accommodation for a long period without anyone to take a special interest in his/her welfare, etc. In these circumstances, action should be taken to identify a suitable person to acquire parental responsibility for him/her at the earliest appropriate opportunity. Legal advice should be sought from an early stage.

(See departmental policy on permanency on possible arrangements for achieving a child/young person's discharge from the looked after system).

8. Guidance: Factors to take into account when considering the need to look after a child or young person

The decision to look after a child/young person should take into account the following factors:

1. What are the child's priority needs? To what extent are the child's priority needs being met by current care arrangements?
2. Is the child/young person suffering or likely to suffer significant harm? To what extent, has her/his welfare been impaired or is it likely to be impaired without the provision of accommodation?
3. What are the likely implications for the child's welfare of not providing a placement? How does this compare with the risk arising from a child/young person's admission to public care? What alternative forms of support could be put in place to reduce those risks to an acceptable level?
4. What work has been done to prevent the need for the child to become looked after?
5. To what extent do the parents need assistance to meet their parental responsibilities?
6. What support could be put in place immediately to allow time for longer-term preventative work?
7. If age 16-18, what is the young person's level of maturity? To what extent, is he/she supported by friends, relatives, and community links? To what extent, is she/he able to manage independently? To what extent, is the test of "serious prejudice"

met? (Section 20 (3)). For 16 and 17 year olds, to what extent does he\she meet the definition of priority need under the Homelessness Act 2002?

8. What alternative arrangements have been explored? Could the child/young person live with relative or friends on a private basis? (See policy guidance on kinship care and Section 6 below)
9. What are the wishes and feelings of the child/young person and their family?
10. What is the legal situation?
11. What is the purpose of the child becoming looked after?
12. What is the anticipated timescale?
13. What would be the role of parents and other family members if the child were looked after?
14. Any other relevant factors?

9. Guidance: Public Care versus Private Care?

Children subject to interim and full care orders.

Any placements made in respect of children who are looked after under legal orders are required to meet with regulatory requirements arising from the Children Act. Looked After Children cannot be placed with carers on a private basis.

Private care as an alternative to local authority accommodation under Section 20

Private placements are those placements made by the parent or others with parental responsibility.

In the process of considering a request for a child to be accommodated, staff should always make enquiries about whether there is a relative or friend (kinship carer) who is able to care for a child. Children should not be admitted to local authority accommodation if their needs can be satisfactorily met by their private placement² with kinship carers.

² Placement made by the parent- child not looked after- see kinship care policy

When there is any level of departmental involvement in respect of a child placed privately by their parent, it is essential that steps are taken to ensure parents fully understand their **key role** in making the placement and that all parties are clear about the **private** status of the placement. **(See also departmental guidance on private fostering)**

Children should not usually be accommodated for financial reasons alone. If a parent is unable to fund a private placement that they have made, then efforts should be made to identify alternative sources of funding³.

In some exceptional circumstances, a child's private placement may be supported from Section 17 for a time-limited period as an alternative to providing her/him with accommodation. (See department policy on kinship care for fuller details)

The decision to look after a child or to refuse a request for accommodation should be based on a full assessment of the child's needs. This assessment should follow the department format for core assessments. If long term funding is required to promote the welfare of a child placed with a relative, full and active consideration should be given to paying a residence order allowance rather than looking after a child/young person (See kinship care policy and residence order policy for details)

On some occasions, the decision that a child does not need to be accommodated because a relative or friend is available to care for them privately will be a relatively straightforward matter. On other occasions, the decision about whether the department should respond to the need for a child to be placed away from home by financially supporting their private placement or admitting them to accommodation, possibly with the same carer, may require a high level of professional judgement that takes full account of a wide range of factors. This is particularly the case if the child is subject to child protection or child welfare concerns.

Although parents retain full parental responsibility for children accommodated under Section 20, the process of formally accommodating a child gives the department greater control over child's day-to-day arrangements. In coming to a decision about whether a child needs to be accommodated rather than placed privately, assessing

³ Parental contributions, extended family funds, state benefits.

staff should consider, amongst other factors, the extent to which a parent needs departmental assistance to meet their wider parental responsibilities and the potential benefits for the child of a higher level of departmental involvement in negotiating day to day arrangements. If the parent needs assistance to meet their parental responsibilities, it may be more appropriate to accommodate the child rather than promote their private placement with section 17 funding. The process of completing the initial and core assessment should inform this judgement.

10. The placement and review of children in accommodation

Staff should refer to department policy document entitled “Placement and Review of Children Accommodated by the Authority” for guidance.