

Homeless 16- and 17-year-olds in need of care

November 2023

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Foreword from Dame Rachel de Souza

Every child deserves a safe and loving home – either with their own family or, if that is not possible, in a stable, caring alternative. As Children’s Commissioner, I have heard from children across the country, including in my recent independent Family Review about just how central a loving home is for every child to be happy, and to succeed.

Sadly though, there are still too many children who do not have that stable base. Particularly worryingly, every year thousands of 16- and 17-year-old children present to their local authority as homeless. I don’t believe that we should accept the idea that a child should ever be considered ‘homeless’. If a 16-year-old cannot live with their own family, because they have been kicked out or their relationships have broken down, then they are not ‘homeless’, they are a child in need of care. So, children’s social care should be stepping in to make sure that a safe and loving home is found.

That is why I wanted to shine a light on this issue, to understand what is happening across the country and how we can support these young people more. I have used my statutory powers to understand the numbers of young people who are presenting as homeless. The numbers are concerning, with around 6,500 16- and 17-year-olds reported to be presenting as homeless last year. About 1,000 of the children presenting as homeless were unaccompanied children seeking asylum (UCSA), although this figure doesn’t include the large number of children placed in hotels when they arrive. However, I am concerned that the data will show just one part of the problem, with children affected by homelessness often not reporting to their local authority and instead in informal arrangements like sofa-surfing or staying at friends.

Too many of the children who do present to their local authority, are not getting the care they deserve and are entitled to. This new data shows for the first time that of the 4,879 children who weren’t UCSA who presented as homeless only 40% were accommodated. But I am perhaps even more concerned by the fact that the majority of children accommodated were not taken into care, as statutory guidance is clear they should be – unless they refuse it – with the legal protections that entails. Only 39% were taken into care (under section 20 of the Children Act) while the majority, 61%, were simply accommodated under housing legislation.

Legislation has been introduced that means the settings children in care aged 16 and 17 can be placed in will be regulated and have to meet certain standards. However, this report raises several concerns about those standards. Firstly, they will not apply to children who are not in care – and as this report

reveals, that is the case for the majority of 16- and 17-year-olds who present as homeless. Secondly, and more fundamentally, the regulations will only legally allow providers to deliver 'support', not care. Every child, whatever their age, needs to live somewhere where they can be cared for.

This report also helps us to understand some of the drivers of youth homelessness, among those aged up to 24. The latest government statistics show that over the past year 55,250 young people aged between 16 and 24 presented as homeless in England, of which 2,340 (5%) were aged 16 or 17.ⁱ If this group of 16- and 17-year-olds are not being provided with the care that they are entitled to, it will only store up difficulties in the long-term. To address youth homelessness, we need to start here.

The young people who are the focus of the report are all vulnerable, and are all children. All of them should have a safe caring place to call home. I have provided recommendations at the end of this report so that we can ensure that is the case.

Acknowledgments

The Children's Commissioner's office would like to thank the young people who gave their time to help us understand the issues by sharing their difficult experiences of homelessness. We would also like to thank the adults supporting children who spoke to us, and the organisations who helped inform this report: St Basils, New Horizon Youth Centre, Simpson Millar, 1625 Independent People, Concrete Rose, University College London Centre for Access to Justice and the local authorities who responded to our request for their data.

ⁱ Note, the government data on 16- and 17-year-olds who presented as homeless last year could be lower than the CCo's findings on children who present as homeless because to the government data is only capturing presentations to local authority housing services.

Executive summary

- **This report sets out the first complete number of 16- and 17-year-olds who present as homeless to local authorities across the country.** The Children's Commissioner has used her statutory powers under section 2F of the Children Act 2004 to collect data from all local authorities in England on what support and accommodation children aged 16 and 17 are offered when their local authority becomes aware that they are homeless or at risk of homelessness. All 152 local authorities in England were asked for data and all responded.
- **Approximately 6,000 children aged 16 and 17 presented as homeless to their local authority in 2022-23.** The data revealed that in 2022-23 a total of 6,469 children aged 16 and 17 sought help from their local authority, or were referred by another person or agency for help, because they were homeless or were threatened with homelessness.ⁱⁱ This includes unaccompanied children seeking asylum, but excludes children who presented as homeless as part of a family.
- **Local authorities did not accommodate all of the children who presented as homeless - 41% (1,978) were not accommodated.**ⁱⁱⁱ Of the children not accommodated, 45% were 'not judged to be homeless' by the local authority and 45% were 'supported to remain at home and/or with family'. If family relationships enable children to remain safely and happily at home, then that should happen. However, this report reveals there are instances in which children seek help multiple times and are forced into precarious living arrangements often sofa-surfing with friends and relatives because they are not accommodated.
- **Local authorities should usually take children into care under section 20 of the Children Act, but only 39% of those accommodated were given this status.** Statutory guidance and case law set out that children with nowhere to live should usually be taken into care under section 20 of the Children Act, giving them 'looked after child' status. However, only a minority (760, 39%) of accommodated children were taken into care under section 20. Most children accommodated (61%, 1,200) were instead accommodated under housing legislation or under section 17 of the Children Act without becoming 'looked after', and there was notable variation

ⁱⁱ Please note, due to late responses from local authorities some data has been excluded from this analysis. Therefore, the analysis in this report is based on data from 5,968 children.

ⁱⁱⁱ Unless otherwise stated, all numbers in this report, with the exception of the total figure of children presenting as homeless, refer to children who are not UCSA. Because of their different legal entitlements, UCSA are considered in a separate section of the report.

in practice around the country.^{iv} In some areas all children were accommodated under section 20, whereas in others all children were accommodated under housing legislation or section 17. Analysis for this report also shows that children are less likely to be accommodated under section 20 the closer they get to 18.

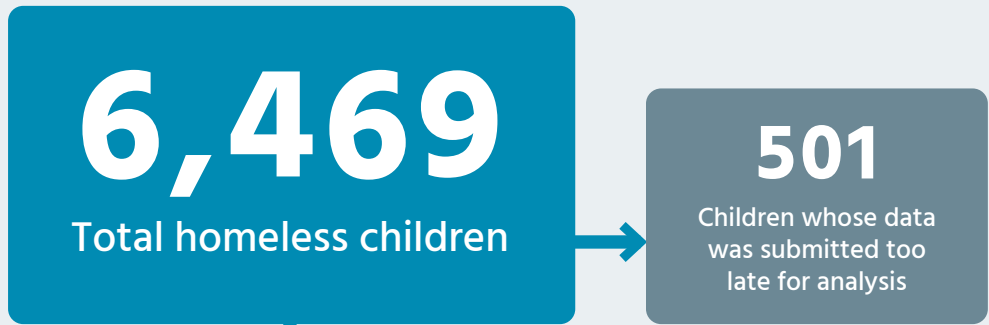
- **Despite the clear joint guidance some children reported feeling ‘manipulated’ into not accepting section 20 care**, and professionals reported this happened. The team heard that information on the options available to children at the point of presentation was often designed to present section 20 as less attractive to children.
- **When children were accommodated by the local authority many had to share accommodation with adults or to live independently.** Of the children accommodated under section 20, 61% were accommodated in semi-independent accommodation. Only 14% of children accommodated under section 20 were placed in a children’s home or foster care. Of those accommodated under section 17 or other housing legislation, less than 1% of children were placed in care settings, 30% were placed in independent living, while 7% were placed in semi-independent accommodation. The local authority did not specify the accommodation for 62% of children accommodated under section 17 or other housing legislation.
- **More girls presented as homeless than boys.** For non-asylum-seeking children, 2,617 (54%) girls and 2,175 boys (45%) presented as homeless. A further 51 were 'other', and the data was missing for 36. Boys were more likely than girls to be accommodated (43% for boys compared to 39% for girls). The majority of the children were White (3,542, 73%), while 8% were Mixed, 7% were Black, 4% were Asian, and 2% were Other. This ethnicity data was missing for 6% of children.
- **The majority of children presenting as homeless were 17 and fewer were 16 years old.** Most of the children in the data were aged 17 when they presented as homeless (3,158 children, 65%), while 34% were aged 16. This data was missing for 44 children. The data contained 440 (9%) children who had a recorded disability.

^{iv} From the office’s data it is not possible to distinguish between children who were: accommodated under housing legislation and also placed on a Child in Need plan under section 17; housed under housing legislation and not placed on a Child in Need plan; or purely housed under section 17. Section 3.60 of the joint guidance outlines that if a child is not owed an accommodation duty or refused section 20 accommodation offer, there may be circumstances in which children are housed under section 17 only.

- **The most common cause of presenting as homeless was family breakdown.** Family breakdown was the cause of homelessness for 47% of children, and family or friends no longer willing to accommodate them was the cause for 26% of children. Of the remaining children, local authorities either did not return the data (10%) or described it as 'other' (9%). The next most common were 'domestic abuse' (105 children, 2%) and 'eviction from supported housing' (92 children, 2%).
- **There is local variation in children being offered advocates they are entitled to.** There was significant variation across the country when it came to the proportion of children who were offered advocates – with no children being offered an advocate in some local authorities, and every child being offered one in others. Only 18% of children were offered an advocate when their need was being assessed, while 36% were not, and for almost half (47%) of presentations, the local authority did not return this information. Moreover, only 7% of children were offered and accepted an advocate.
- **Children who had accepted an advocate were the most likely to be accommodated under section 20 of the Children Act.** Over a third of children who had accepted an advocate were accommodated under section 20 (38%), compared to only 12% for children who were not offered an advocate. Children who accepted the offer of an advocate were more likely to be given care under section 20 than children who declined (38% vs 31%). This may reflect the power of advocates to influence local authority decisions.
- **Around 1,000 of the 6,000 children aged 16 and 17 and presenting as homeless were unaccompanied children seeking-asylum (UCSA).** In our data, 1,089 (18%) were UCSA and 4,879 (82%) were not. The experience of UCSA can be different, in part because they do not have any right to housing under homelessness legislation. The findings on UCSA are therefore reported in a separate chapter from the findings on other children. Of these children, 90% were accommodated under section 20. Half of UCSA (50%) were offered an advocate, 24% were not, and the local authority did not return this information for a quarter (25%) of presentations. This does not include the figures for Kent, where the majority of UCSA first present. In the coming months, the Children's Commissioner plans to report separately on what happens to children when they first arrive in the UK.

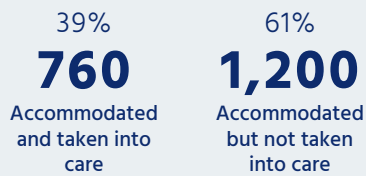
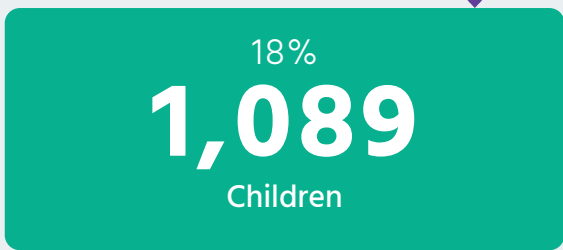
Chapter 7 of this report sets out a series of recommendations on how children aged 16 and 17 can be better looked after if they present as homeless.

BREAKDOWN OF HOMELESS CHILDREN



UCSA
(Unaccompanied asylum seeking children)

NON-UCSA



Methodology

The office adopted a mixed-methods approach to the research in this report. There is a full Methodology in the Technical Report published alongside this report and an overview of the research methods used below.

Quantitative data collected from local authorities

The office asked the 152 local authorities in England for data on the treatment of children aged 16 and 17 at the point of presenting as homeless or threatened with homelessness. The request asked for child-level data covering the 12-month period from 1st April 2022 to 31st March 2023. Unaccompanied children seeking asylum were included in the request, but 16- and 17-year-olds who presented as homeless with their families were excluded. All local authorities responded, but only 136 in time to be included in the main analysis. Simple statistics covering all 152 local authorities are presented in Annex A1.

Qualitative data collected from interviews with children and professionals

The CCo wanted to hear directly from children who had experience of presenting as homeless to their local authority to understand their experiences and the barriers to getting the right help that they faced. The office spoke to a total of 15 children and young people aged 16 to 21, with experience of presenting as homeless at age 16 or 17. Of these, 4 were UCSA and 11 were not, and 8 were female and 7 were male. The office also interviewed a range of professionals who support children when they experience homelessness and spoke to a range of charities and other stakeholders that work to support homeless 16- and 17-year-olds. The office also conducted a series of visits to understand what provision looks like in practice. The views of the office's Help at Hand team, and the experiences of the children they support, have also informed this report.

Qualitative review of Joint Protocols

Each local authority was asked to return a copy of their Joint Protocols for assessment and accommodation of 16- and 17-year-olds who present as homeless. Local authorities are required to set out how housing and children's services work together to support homeless 16- and 17-year-olds as statutory guidance states that it is 'essential that services for [homeless] 16- and 17-year-olds are underpinned by written joint protocols'.¹ A total of 22 protocol documents were included in this analysis, and quotes and findings are presented in relevant sections throughout this report.

1. Introduction

This chapter sets out why the Children's Commissioner chose to focus on this vulnerable group of children, what is already known about them, and explains their legal position.

1.1. Background on youth homelessness

The recent launch of 'Homewards', a five year locally-led, UK-wide programme with the mission to show that it is possible to end homelessness is very welcome. The scale of youth homelessness requires this kind of long-term and ambitious focus, to ensure that every vulnerable person across the country has access to a place to call home. The programme has a welcome focus on prevention, and this report highlights how getting things right for 16- and 17-year-olds is an essential part of that. Latest government statistics from this year shows that the population of 16-24-year-olds who presented as homeless in England was 55,250.² It is also important to note that there have been other estimates made about the population of homeless young people, for example using data collected from councils in England it was estimated that 112,500 16-24 year olds were homeless or at risk of homelessness in 2022.³ This report focuses on a subsection of that cohort – the children who are under 18 – and suggests practical, urgent changes that could be implemented to prevent these children growing into homeless adults.

Homeless 16- and 17-year-olds are still children in need of care and protection. In recent years, there has been a growing appreciation of the vulnerability of older children. There has been a greater understanding of the risk of criminal and sexual exploitation, guidance has set out the risks of teenage relationship abuse, and just last year the Marriage and Civil Partnership Act 2022 raised the minimum age of marriage to 18, a measure the Children's Commissioner had called for.

But there is still a long way to go to properly identify and support all the older children in need of help. This report examines one cohort of vulnerable 16- and 17-year-olds who are still largely overlooked. This group is made up of older children in need of care and protection, but who are instead treated as 'homeless' and found a place to live without legally coming into care and becoming a 'looked-after child'. The Children's Commissioner's Help at Hand team have supported many such children. Too often the team find that these vulnerable 16 and 17-year-old children who experience various forms of instability, neglect, and abuse, do not get the right help when they disclose the challenges they are experiencing to their local authority.

While there is statutory guidance in place to ensure that local authorities prioritise their duties to children under the Children Act 1989 over their duties under housing legislation, this group of children are frequently treated as young adults who are expected to live independently.

1.2. Hidden homelessness at 16 and 17

While many children can and should be supported to stay safely at home, there are some children for whom that is sadly not possible. Some of the children interviewed for this report said that when they were not or accommodated, they instead began sofa-surfing with friends, or living in family arrangements that did not feel safe. We know that 15% of the children who presented as homeless were living with friends, suggesting this is situation is not uncommon. Likewise, we know that around 800 children had to seek support more than once before getting help. Chapter 5 of this report details what we know about those children who presented as homeless but were not accommodated, and the potential risks facing them. But it is likely that more children are in these kinds of precarious arrangements, but might never present as homeless in the first place, and so not appear in our data.

The issue of 'hidden homelessness' has been highlighted by the homelessness sector for many years – noting that there are many who do not appear in official statistics because they have found temporary, if unsafe or unsustainable, solutions. Figures in this report cannot show the scale of hidden homelessness at 16 and 17 but highlights how these issues appear to emerge in childhood, with 16- and 17-year-olds already having to find these kinds of arrangements. To prevent homelessness, it is therefore essential that children in this position are given the support they need – whether to rebuild relationships with family, find genuinely supportive alternatives within their family network, or to come into care.

1.3. What children aged 16 and 17 are legally entitled to

There are clear legal duties placed on local authorities to ensure that children presenting as homeless get the care they need. 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.⁴ A child accommodated under section 20 becomes a 'looked after child' and the local authority takes on the role of a corporate parent. Local authorities must develop a care plan for looked after children and are responsible for monitoring their health and educational progress. 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. 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. From this year looked after children will only be able to be placed in regulated accommodation, either Supported Accommodation, Children's Homes or foster care.

Housing services also have duties to homeless 16- and 17-year-olds under part 7 of the Housing Act 1996; these children are considered in 'priority need' for housing if they are not a care leaver or owed a duty by children's services under section 20 of the Children Act.⁵

In 2009, a key piece of case law clarified children's services' responsibilities towards homeless 16- and 17-year-olds. In the 'Southwark Judgement' the court ruled that the local authority's Children Act duties should take precedence over their Housing Act duties. This judgement has since shaped government's guidance, with the introduction in 2010 of statutory guidance jointly issued by the Secretary of State for Education and the Secretary of State for Housing, Communities and Local Government; the latest version of this guidance was published in 2018.⁶ It sets out that section 20 of the Children Act 1989 should take precedence over duties under Part 7 of the Housing Act 1996, and that children should be accommodated under section 20 unless they are judged not to be in need, or when they refuse that form of support.

The guidance also places duties on local authorities to ensure that there is effective joint working between children's services and housing services. Local areas should produce joint protocols which set out the roles and responsibilities of Children's Social Care, Housing and partner agencies when 16- and 17-year-olds present as homeless.

1.4. Lack of support can create longer term problems after turning 18

To address homelessness among the adult population it is vital that these children do get the legal care status they are entitled to, with support in place once they turn 18. For the children who are not accommodated under section 20, and do not become a care leaver at 18, there are no duties on local authorities to keep in touch with or support them beyond 18, and so they end up much less visible to services.

It is thankfully well understood that not enough is being done to support care experienced people to avoid homelessness. Tragically, a large proportion (an estimated 26%) of the adult homeless population have spent time in care.⁷ Yet currently, care leavers are only entitled housing until the age

of 21.⁸ It is vital that support for care leavers is enhanced, and the Children's Commissioner has set out her priorities for change.⁹

However, as this report shows, there is an equally vulnerable cohort of children who are also at high risk of becoming homeless as adults, but who do not have any rights or entitlements to ongoing support when they turn 18. Children spoken to for this report were clear about how the lack of support they got at 16 and 17 made them anxious about what would happen when they turned 18. Young people told the team:

'You get to 18 there's nothing, you're not ready, the support just drops off' – Boy, 18.

Another told the team:

'When I turned 18 I was told I wouldn't get any support, I would be just back out there. That worried me' – Young man, 19.

Advocates working with these children explained how it was often only when children turned 18 that they realised what support they were missing out on. The team spoke to an advocate who expressed their frustration at children not getting supported under section 20 as a looked after child and as a result missing out on access to support as a care leaver at 18:

'We have 18-year-olds come back to us and once they realised they weren't in care say actually I'm not care leaving now, why not? I thought I was' – Advocate.

2. Number of children presenting as homeless

This chapter shows the number of children presenting as homeless in England and includes overviews of the data collected from local authorities.

2.1. The number and characteristics of children presenting as homeless

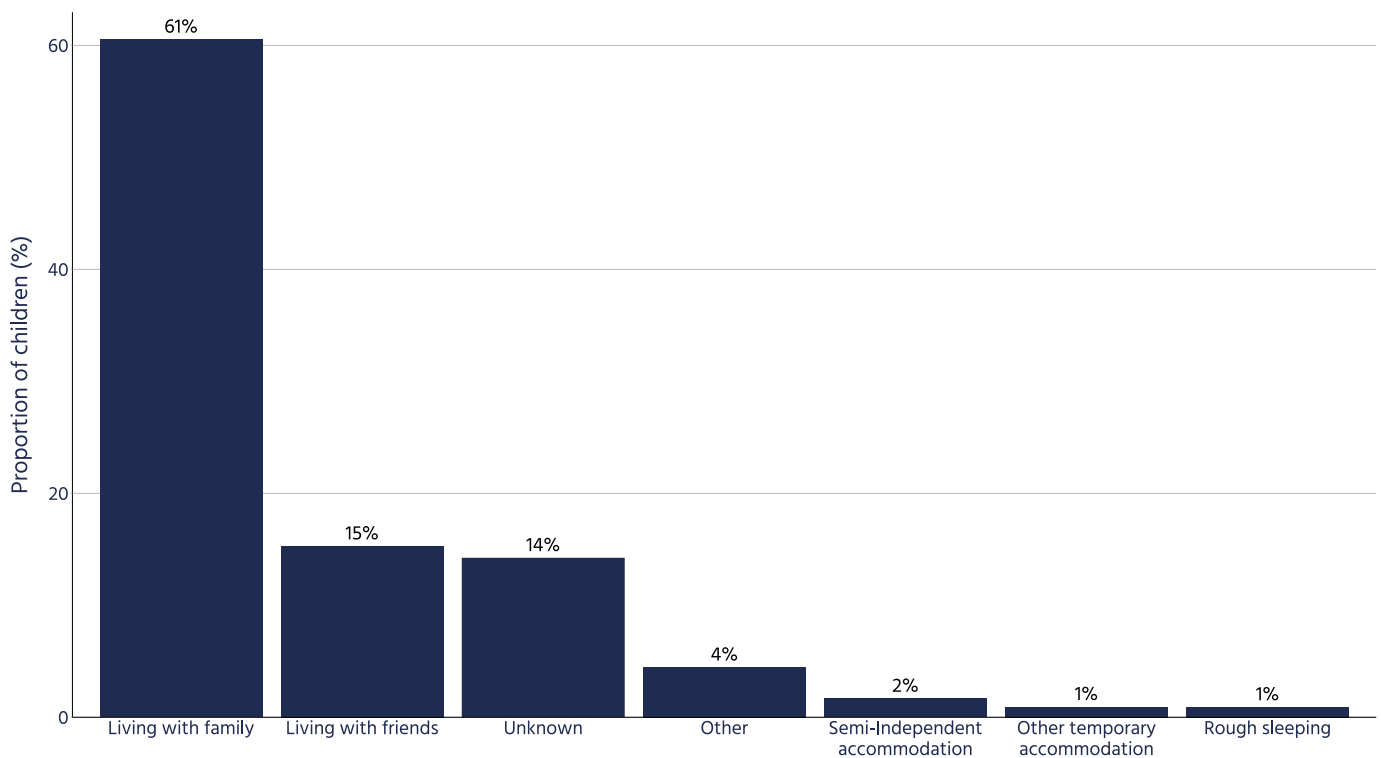
In total 6,469 children presented as homeless in England in 2022-23, the year the data was requested for.^v This means they asked for help from their local authority because they were homeless or were identified as being at risk of homelessness. Excluding those with nil returns, the number of homeless 16- and 17-year-olds in each local authority ranged from a minimum of 1 to a maximum of 313. 1,089 (18%) were unaccompanied children seeking asylum (UCSA) and 4,879 (82%) were not. In this report, given their different legal circumstances, the needs of UCSA are discussed separately in Chapter 6 – all numbers in other chapters refer to non-UCSA unless otherwise stated. For the non-asylum-seeking children the data contained 2,617 (54%) girls and 2,175 boys (45%). A further 51 were 'other', and the data was missing for 36. The majority of the children in the data were White (3,542, 73%), 8% were Mixed, 7% were Black, 4% were Asian, and 2% were Other. This data was missing for 6% of children. Most of the children in the data were aged 17 when they presented as homeless (3,158 children, 65%), while 34% were aged 16. This data was missing for 44 children. The data contained 440 (9%) children who had a recorded disability.

^v This figure is a high estimate based on the 152 local authorities in England, all of whom responded to the office's data collection. Note, however, that the analysis in this report excludes data from the 16 local authorities who responded late to the collection. This headline number of 6,500 children also includes UCSA, although this group being described separately in their own section in this report.

2.2. Overview of where children had been living before they were homeless

Of the 4,879 children who presented as homeless, the majority had previously been living with their family (61%). The next most common prior living arrangement was to be living with friends (15%).^{vi}

Figure 1: Children's living arrangements before presenting as homeless.

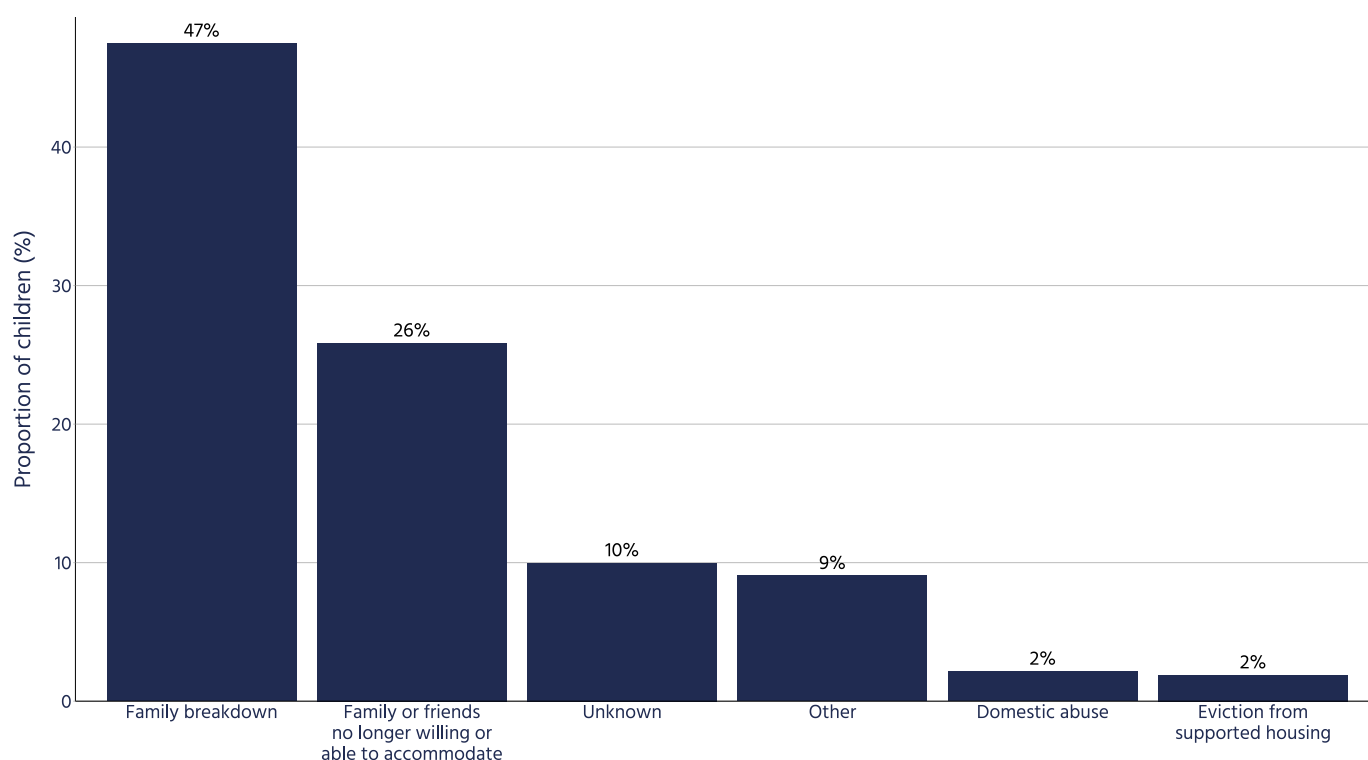


^{vi} Some local authorities included in their return children who were living in children's homes or foster care. These children have been removed from the analysis because care placement breakdowns should be resolved through care planning reviews, not further assessments. It is therefore not surprising that the majority were supported to stay in their placement, deemed not homeless or accommodated under section 20. Including these children therefore distorts analysis of the cohort. However, it is very concerning that 14% of these children were supported under housing legislation or sections of the Children Act other than section 20.

2.3. Reasons children presented as homeless

Of the 4,879 children who were not unaccompanied children seeking asylum, the majority presented as homeless either because of a family breakdown (47%) or because their family or friends were no longer willing to accommodate them (26%). Of the remaining children, in the majority of cases local authorities either did not return the data (10%) or described it as ‘other’ (9%). The next most common categories were ‘domestic abuse’ (105 children, 2%) and ‘eviction from supported housing’ (92 children, 2%).^{vii}

Figure 2: Reason for children presenting as homeless.



^{vii} Of those evicted from supported housing, 33 were not accommodated at all. Of those accommodated after eviction, where the type of accommodation was known, the most common was independent living (14 children).

2.3.1. Family breakdowns

Almost half (47%) of children presented as homeless because they could no longer live at home due to family breakdown. Children the office spoke with often talked about being pushed out of living at home and reflected on challenges in their relationships with their parent or parents. They described how there is often a breaking point of being forced to leave because the issues have been going on for some time without support, and without resolution.

One young person reflecting on his experiences told the office: *'So when I was in college and I was 16 [my parents said] I have to pay rent this and that. And then we just got more tense at home, and then there's also a lot of arguments occurring more frequently there. It all kind of boiled over one day...we had a big row that's where the police were called and the I spent the night in a hostel'* – Young man, 18.

Another child told the team that she had tried multiple times to get help from social services: *'When I was 17 there was another instance when my mum was pregnant and then there was going to be two children for me to deal with. I spoke to social services when I was 17 but they just tried to persuade me to wait until university to get out'* – Girl, 17.

The accounts from these children show that the difficulties they are facing are ones which demand a children's social care response. If a child's relationship with their family has deteriorated so far that they do not feel they can stay with them, what is needed is family intervention to support them to live safely together, or for that child to come into care. However, a system has developed where too often these children are seen to simply have a housing problem.

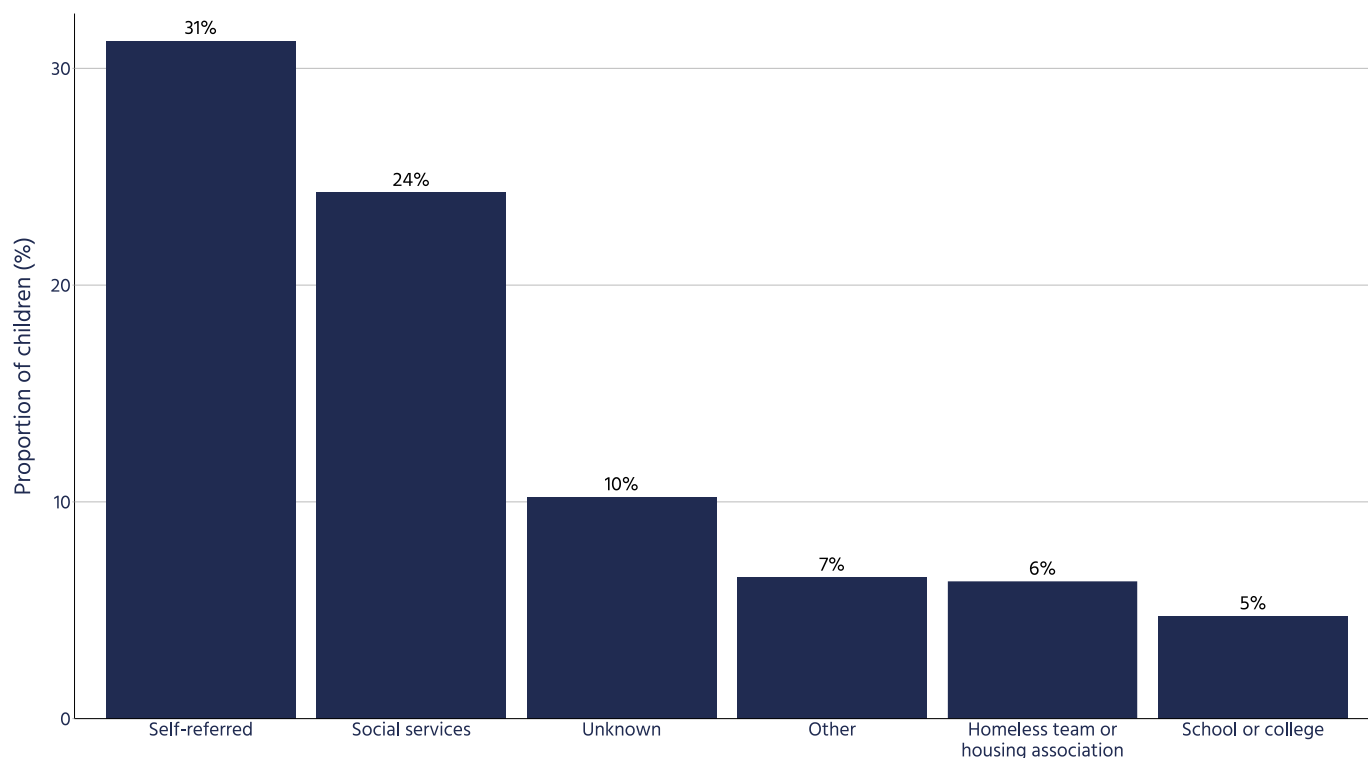
3. Children's experiences when they present as homeless

This chapter outlines what happens when a child presents as homeless, and the type of support they are offered if they are accommodated. It sets out the types of legislation children are accommodated under, and the reasons that different types of legislation are used.

3.1. Referrals

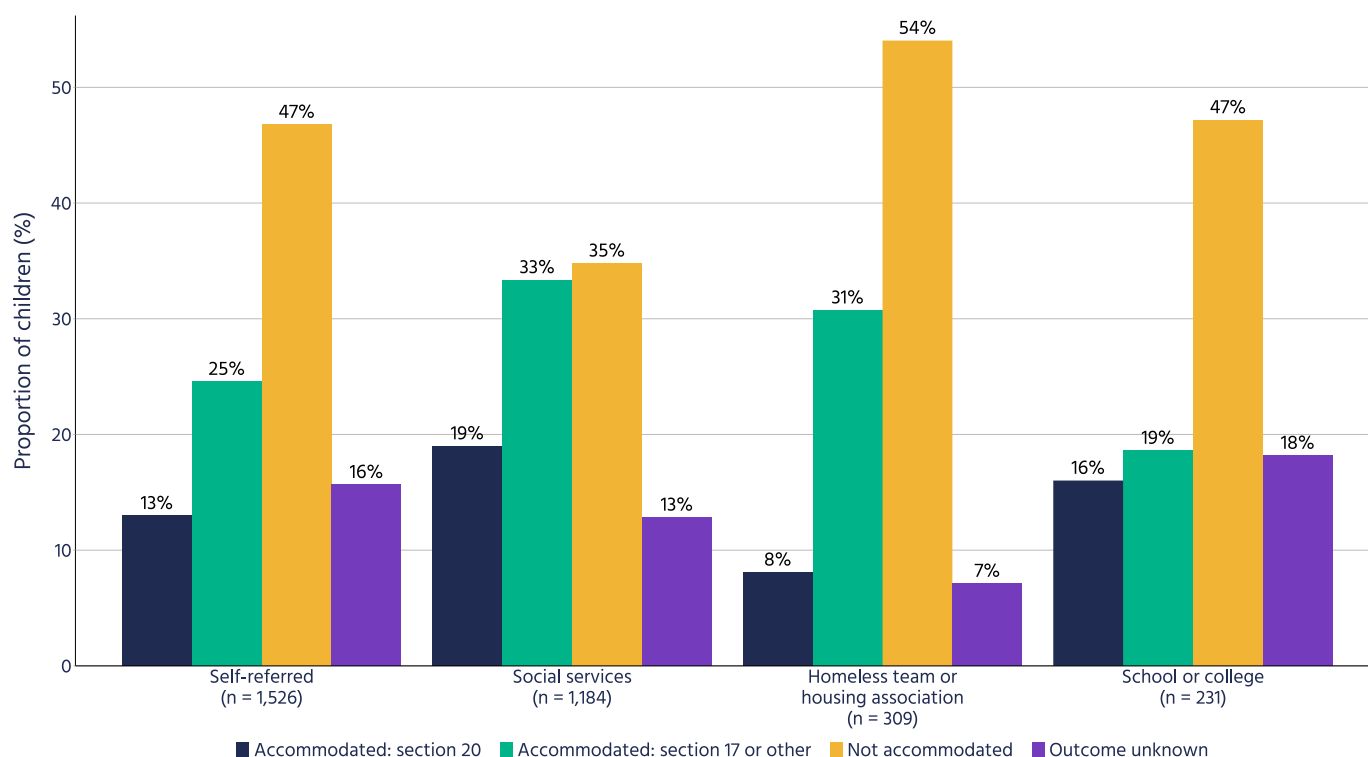
There were different pathways to the child getting to the stage of presenting as homeless to the local authority with many referring themselves. Of the 4,879 children who presented as homeless, the majority either referred themselves to the local authority (31%) or were referred by social services (24%). Of the remaining children, in the majority of cases local authorities either did not know who made the referral (10%) or described it as 'other' (7%). The next most common routes to referral were via the local authority's own homeless team or local housing association (309 children, 6%) and via a school or college (231 children, 5%).

Figure 3: Source of referral.



The ‘front door’ which a child came through appears to have an impact on their outcome. Those presenting following an initial contact with local authority homeless teams or housing associations were most likely to not be accommodated and, of those who were accommodated, they were housed mostly through section 17 and other housing legislation. Just 8% of these children were accommodated under section 20. Referrals via social services and via schools or colleges led to the highest percentages of children being given care under section 20 (19% and 16% respectively). This could indicate that while joint assessments should always take place the initial point of contact does have an impact on what happens next – those going to housing in the first instance were less likely to end up in care than those going to children’s services.

Figure 4: Source of referral by type of legislation used to accommodate the child.



It is concerning that although central government guidance is clear that assessment should be carried out jointly by children’s services and housing, three of the 22 local joint protocols analysed in full by the office said that the responsibility for conducting the assessment sat with whichever service the child first presents to. This could exacerbate the risk of children receiving a different service depending on their first point of contact.

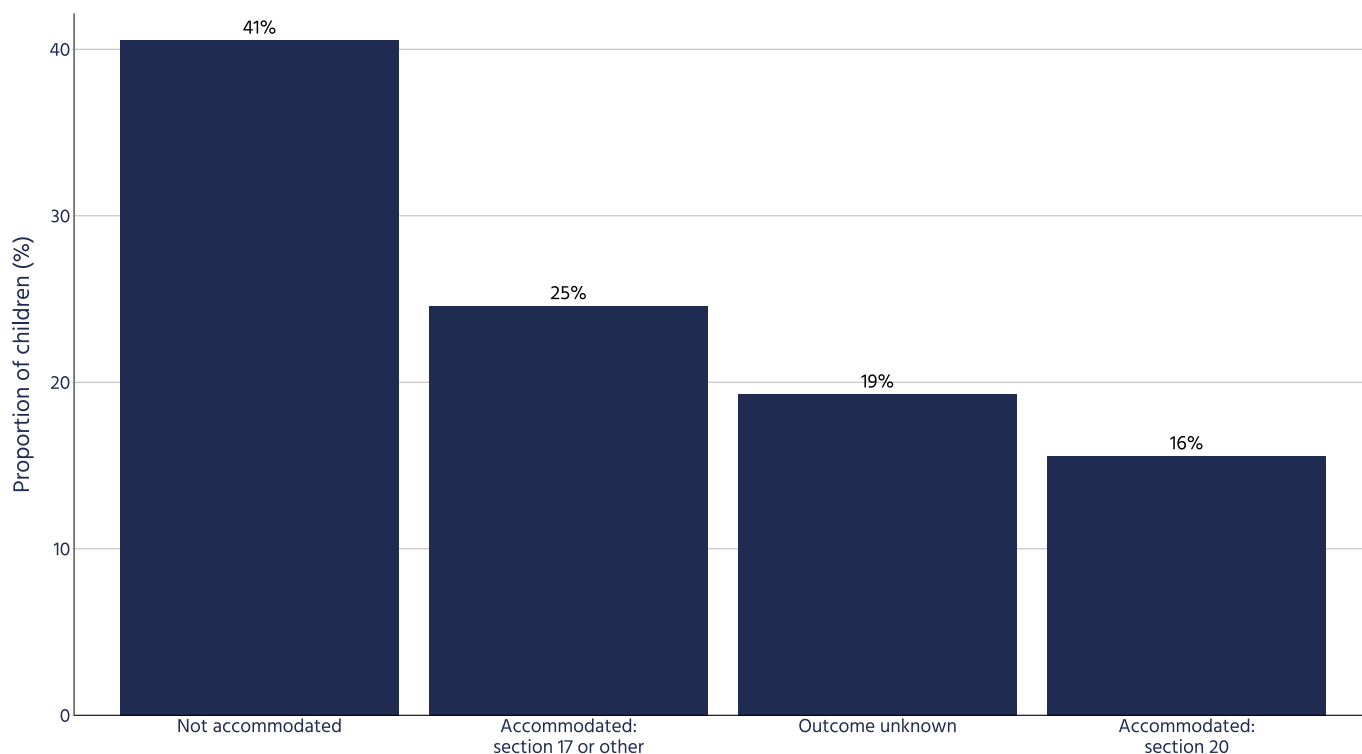
3.2. The use of legislation at the point of assessment

At the point of assessment, the local authority decides which legislation applies to the child. Statutory guidance and case law sets out that children with nowhere to live should usually be taken into care under section 20 of the Children Act.

Of the 4,879 children, 1,960 (40%) were accommodated. Of those accommodated, only 39% were accommodated under section 20 of the Children Act, while 61% were accommodated under section 17

or other housing legislation.^{viii} It is deeply concerning that these children who should be becoming looked after children, and getting the legal protections that entails, are instead being accommodated under other legislation.

Figure 5: Response of local authorities to children presenting as homeless.

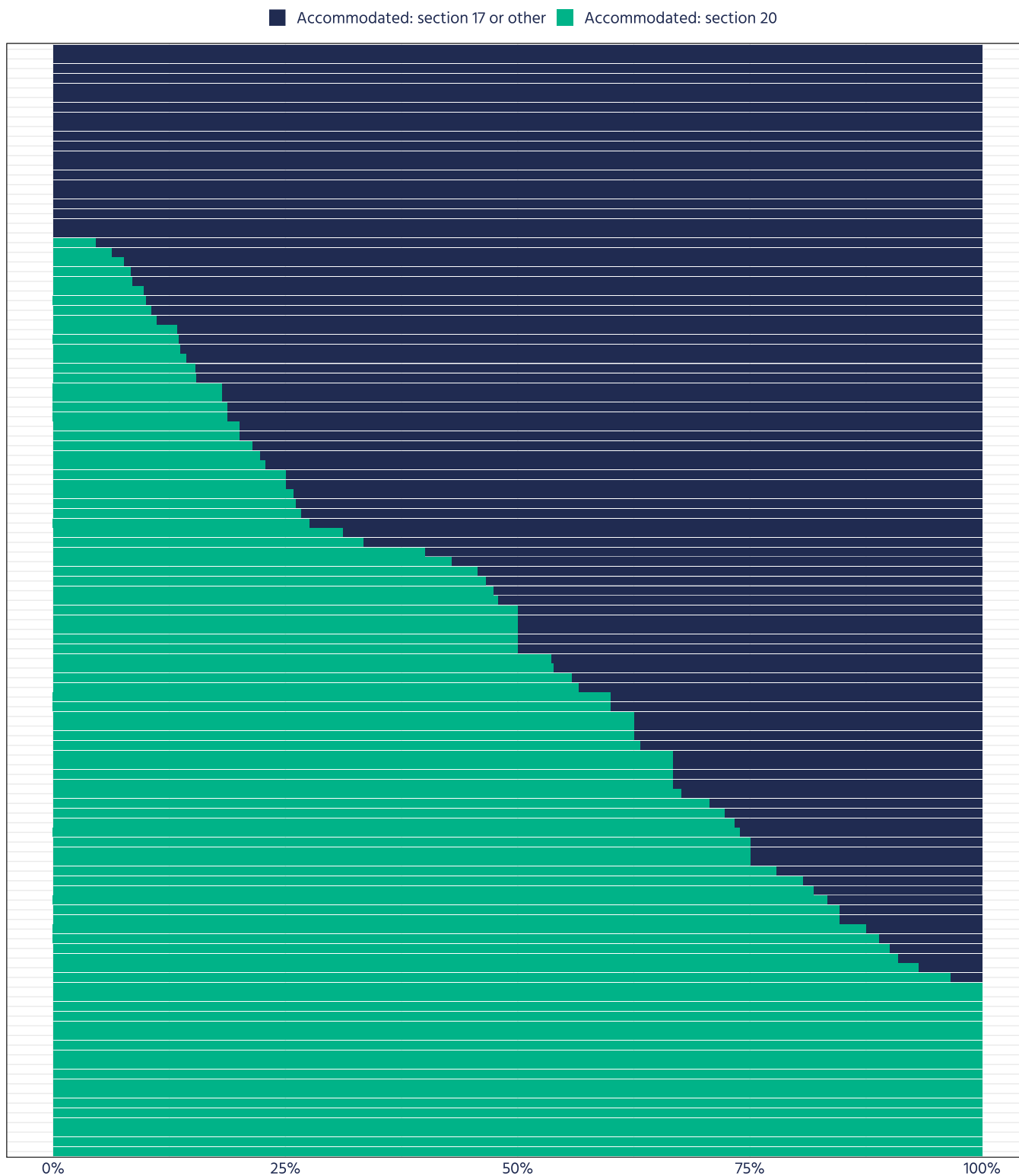


3.2.1. Regional variation on application of section 17 and section 20

The data show substantial variation around the country. Some local authorities appear to have a blanket practice of accommodating children under section 17 or housing legislation rather than under section 20.

^{viii} The analysis for this report groups together children whose local authorities housed them under: section 17 of the Children Act; other sections (besides sections 17 and 20) of the Children Act; and other housing legislation. This group is referred to as 'Accommodated: section 17 or other legislation'. It was not possible to distinguish between local authorities where the child was housed under housing legislation, and was also getting section 17 support, and those where the child was housed under section 17. As guidance is clear that section 20 should be used in preference to these alternatives, they have been grouped together.

Figure 6: Breakdown of what legislation children were accommodated under by local authority



3.3. Reasons for children being accommodated under different legislation

There appear to be several reasons why children who should be getting support under section 20 end up instead receiving support under other legislation. This section reveals deeply concerning practice which appears to show that local authorities are not adhering to statutory guidance.

3.3.1. Children encouraged away from section 20

Children are entitled to support under section 20, under which they become looked after children. Joint guidance sets out that this should be the default used, unless the child is genuinely not in need, or if they are unwilling to accept it. However, interviews with children and professionals showed that these two options were being presented to children to choose between, as if they were equally valid. Sometimes, as one young man explained, the options were presented in a biased way: *'I was given the option of section 17 or section 20 – the letter was geared towards section 17.'* – Young man, 18. Professionals likewise reported this often happened.

The team heard that information on the options available to children at the point of presentation was often manipulated to present section 20 as less attractive to children, with professionals highlighting that they would need to have more regular contact with social workers and that curfews would be enforced. Children reflected that information presented to them on their options was often presented in a leading way, often attempting to dissuade them from accepting the section 20 option.^{ix} One young person said: *'I was told that section 17, which is the one I ended up picking at first, it's just the section where I'll have more freedom and as a child, I was happy about that. [...] I'll have freedom to do whatever I want essentially, but I wasn't told that it's not just me getting freedom. Due to me picking section 17, I'm going to lose out on the on the things that I actually require'* – Young man, 19.

Even more concerningly, some young people reported that they were actively told that they couldn't receive support under section 20. As one child said: *'I did ask for the section 20 I didn't want to go down the housing route, but they said they couldn't do the section 20 because of my age [...] they sent me to housing and they were going to place me in a hostel'* – Girl, 17.

^{ix} See the methodology annex for an example of how information is presented to children.

3.3.2. 'Waiting out the clock'

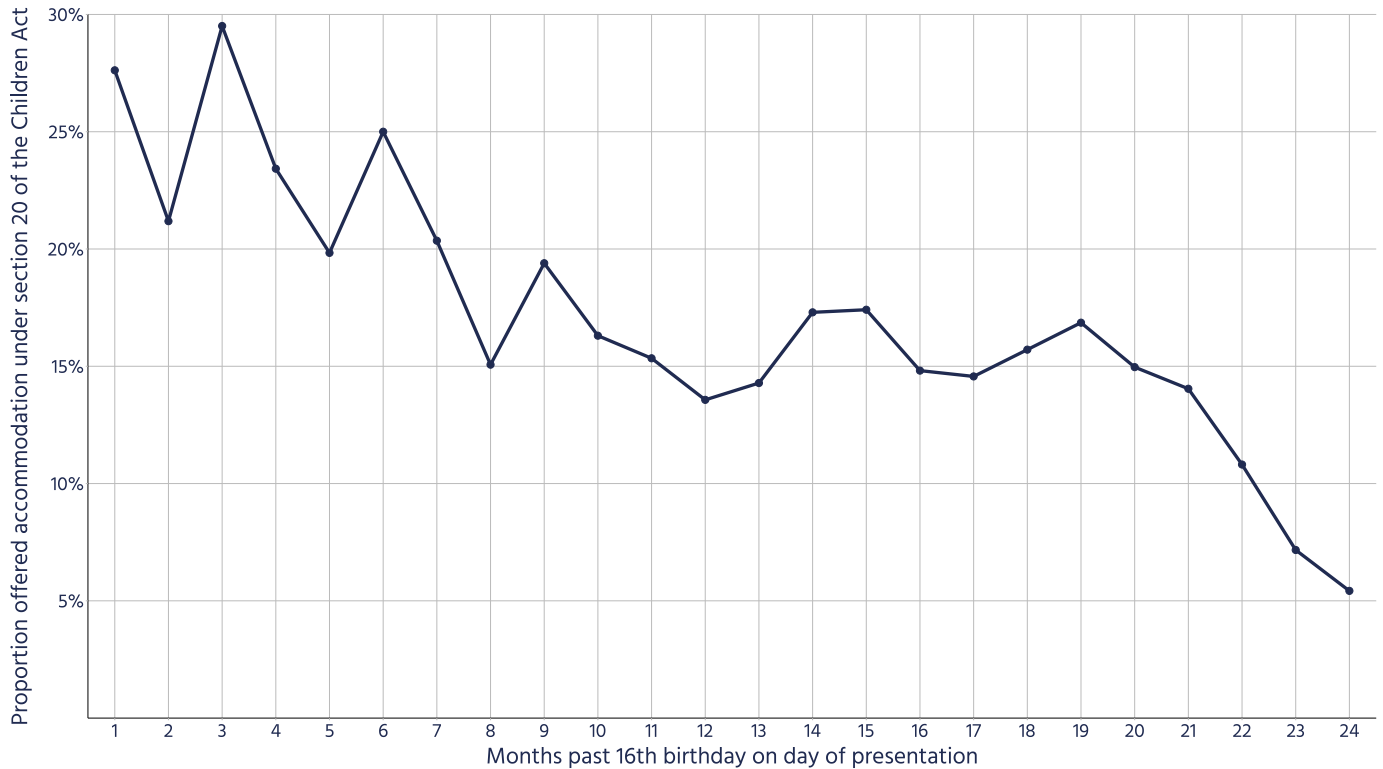
Children the team spoke with often reported feeling that their local authority was slow to act on their case and get them the right help. In some instances, children reported feeling that there was a deliberate attempt to prolong the assessment period and avoid supporting a child under section 20 and therefore not be responsible for supporting them once they turn 18 as a care leaver. The statutory timeframe for assessment is 45 days, although as section 6.2. shows this is often exceeded. It is particularly concerning for older children approaching 18 if these delays mean they miss out on care they would otherwise have been entitled to.

One young person, reflecting on her experience of the support she received told the team: *'I'm not going to try to say that she [the social worker] sabotaged my case, but she definitely did not go above and beyond, at all, she did not care, she left it because, she knew at the end of the day you'll turn 18 anyway in a few weeks, so not going to be my problem. She left me without anything, literally no ID, no care leaver status, nothing, no housing benefit or anything sorted out'* – Girl, 21. Another boy spoke about how he felt unsupported due to his age: *'Because I was turning 18 soon, they were trying to prolong it – give it one more month'* – Boy, 18.

3.3.3. Differential treatment depending on age

The data shows that children aged 16 were more likely than those aged 17 to be accommodated under section 20 (20%, compared to 13% of 17-year-olds). Conversely, 17-year-olds were more likely to be housed under section 17 or other housing legislation (26%, compared to 21% of 16-year-olds). The likelihood of a 16- or 17-year-old being offered care under section 20 falls as their 18 birthday approaches (figure 7). Among 16-year-olds, the percent offered section 20 care was 20% for those aged 16 and a half, and 14% for those in the month before their 17th birthday. This dropped to 5% for those in the month before their 18th birthday.

Figure 7: Proportion of children offered care under section 20 by number of months (rounded up) after their 16th birthday on date of presentation as homeless.



A child remains a child until their 18th birthday, and there is nothing in law to suggest that a 17-year-old should get less support than a 16-year-old, but this appears to be what is happening in some cases.

3.3.4. Differential treatment depending on gender

Overall, boys were more likely than girls to be accommodated (43% for boys compared to 39% for girls). Boys were also more likely to be accommodated under section 20 (17% for boys vs 14% for girls). Girls were instead slightly more likely than boys to not be accommodated and instead supported to remain at home and/or with family (19% for girls vs 18% for boys).

3.4. Getting support and advice at the time of assessment

3.4.1. Lack of support from social workers

Children spoke about how they didn't feel they got the right support from social workers when they were being assessed and making these decisions. One young person said: *'If my social worker had just listened and if my social worker just put things in place, not for how she thought and what she thought were good, if you just looked at it for what's going to be best for this young person's future across the board, what's going to be the best for this young person's future?'* – Girl, 21. There was sometimes a sense that children's trust in their social workers had broken down because of the advice they gave about accepting section 20 or not. One boy said: *'I trusted the social worker, I just took her word for what the differences would be. You're meant to take her word for it because she's there to help kids. I was betrayed because she withheld information from me. She manipulated me into making a decision that's life-changing'* – Young man, 19.

3.4.2. Complex information presented without help from advocates

The type of support children are given will have long lasting and profound implications, while they are children and when they turn 18. However, too many children were having to make this decision in a moment of crisis and without the right help. Navigating the complexities of the different support options without consistent advice and support is overwhelming for children. One child told the team: *'I was provided with two choices of section 17 and section 20. And when I was first provided with these options, I genuinely had no idea what any of them meant. And obviously I just come from believing that I was gonna be homeless... You're not in a place to make be making loads of really big, important life changing decisions.'* – Young man, 19.

The statutory guidance is clear that children who present as homeless should be offered access to an independent advocate to help them to assess the relative merits of the accommodation offers available to them. Without access to experienced advocates or legal advisors to explain what this decision could mean for their futures, it is unreasonable to expect children to be able to make a fully informed decision. The critical importance of advocacy to navigate this challenging time and the complexity of information being given was highlighted in interviews conducted for this report. An advocate the team interviewed told the office: *'A lot of time, young people just have absolutely no idea what's going on. And they tell us yeah, [...] they visited me, but I don't know what it was about'* – Advocate.

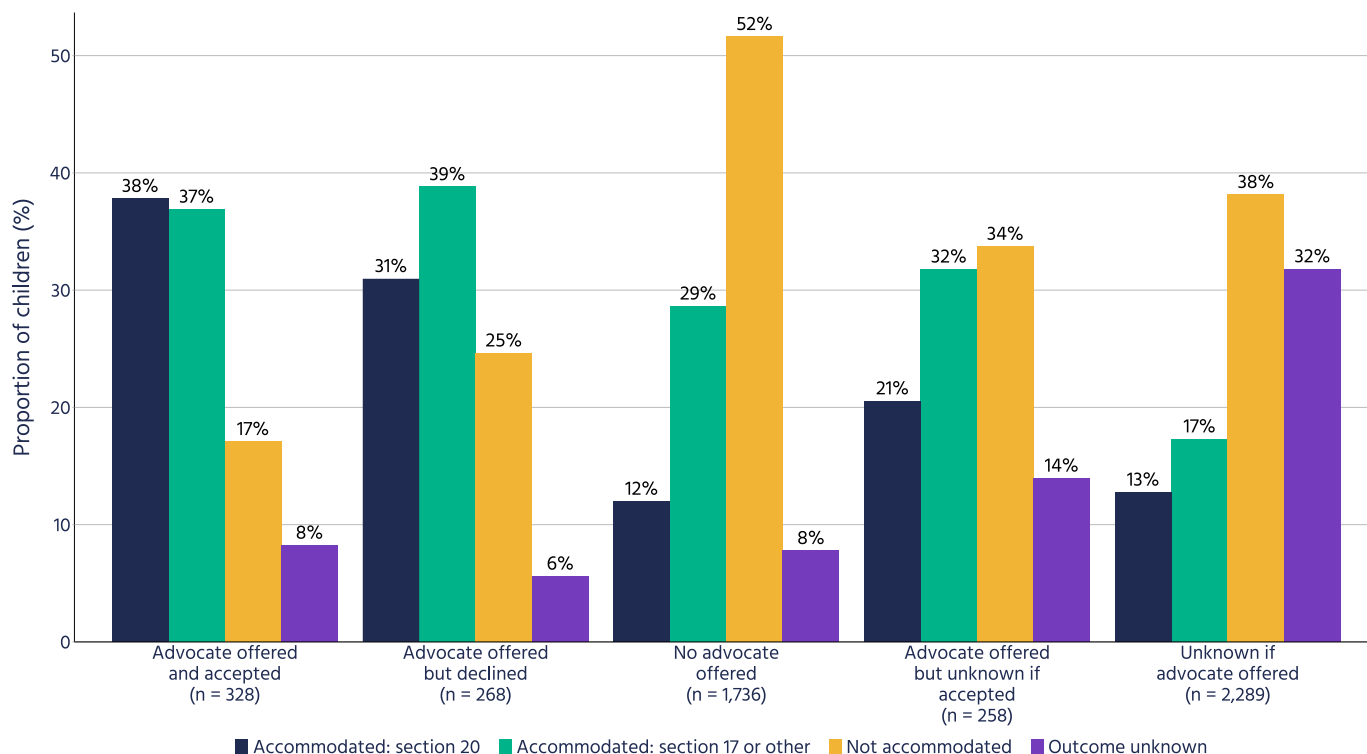
It is a common refrain throughout Joint Protocols that children must be given adequate information about their rights and entitlements and the consequences of choosing to be accommodated under section 20 or section 17. However, only 5 of the Joint Protocols reviewed referenced or linked to information designed specifically to be accessible to children. Only 50% of the 22 joint protocols analysed reference the child's right to access independent advocacy throughout the assessment and accommodation process.

Children told the team how much they value the role of advocate. One girl told the team: *'I just wanted support with learning about what everyone is telling me cause some of the stuff they'd write it down, but it was like kind of really simple so no one was really telling me too much and also just like legally, what help I can get at the time because everything was very complicated at that time'* – Girl, 17.

It is notable that children who had accepted an advocate were the most likely to be accommodated under section 20 of the Children Act. Over a third of children who had accepted an advocate were accommodated under section 20 (38%), compared to only 12% for children not offered an advocate (figure 8). This could in part be down to local authorities with best practice when it comes to section 20 also being more likely to offer advocacy, although this was not explored for this report. However, even among just those children who were offered an advocate, children who accepted the offer were more likely to be given care under section 20 than children who declined (38% vs 31%). This may reflect the power of advocates to influence local authority decisions or may be the result of other cultural or contextual factors in local authorities.^x

^x After controlling for the different characteristics of the children in the analysis, accepting the offer of an advocate still statistically significantly increased the chances of a children being accommodated under section 20. For details see Annex A3.

Figure 8: Support given to children by whether they were offered and then accepted an advocate

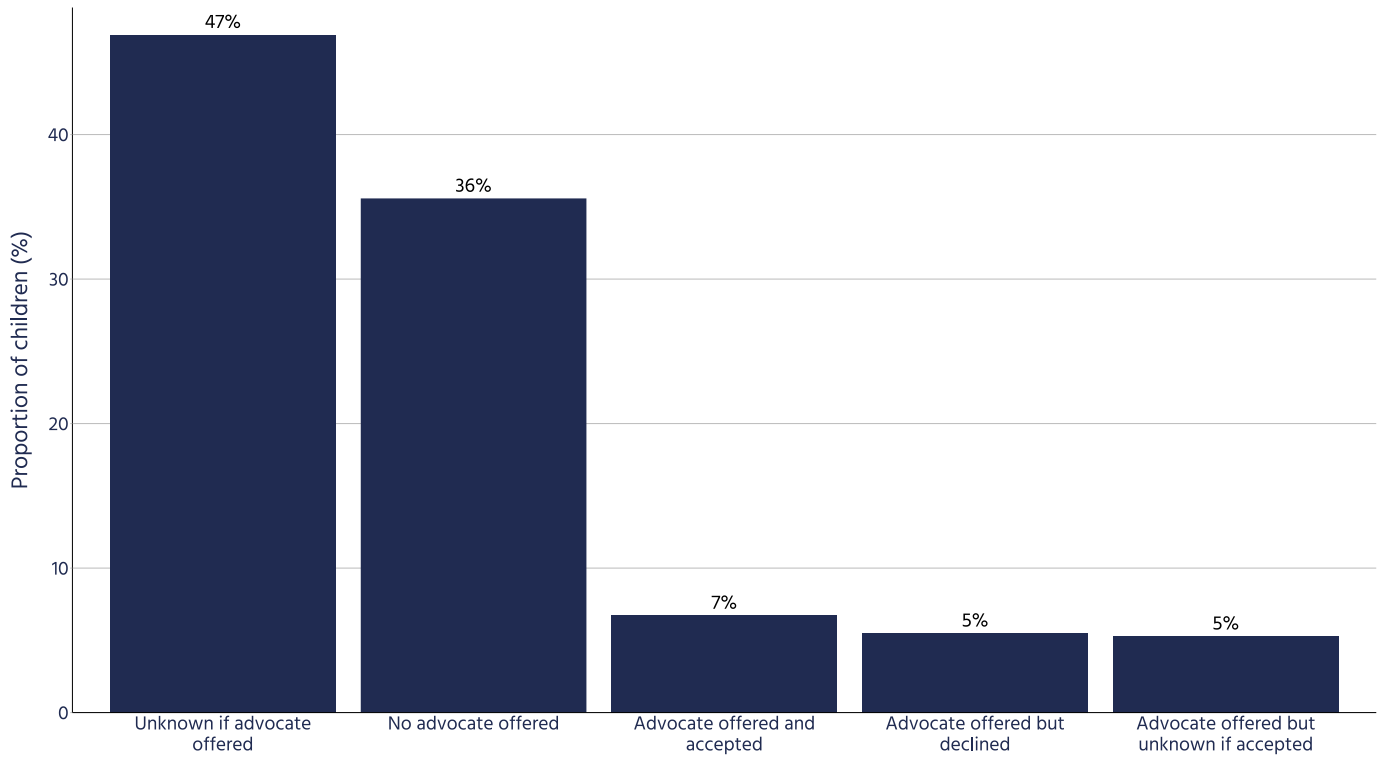


3.4.3. Local authority variation in children being given advocates

Concerningly, for 47% (2,289) of children who presented as homeless, local authorities could not answer whether children had been offered an advocate. Where responses were recorded, the office found that only 854 children were offered an advocate, with 1,736 not offered an advocate. That means that only 18% of all children who presented as homeless were known to have been offered an advocate (or 33% of children for whom advocacy data is available).

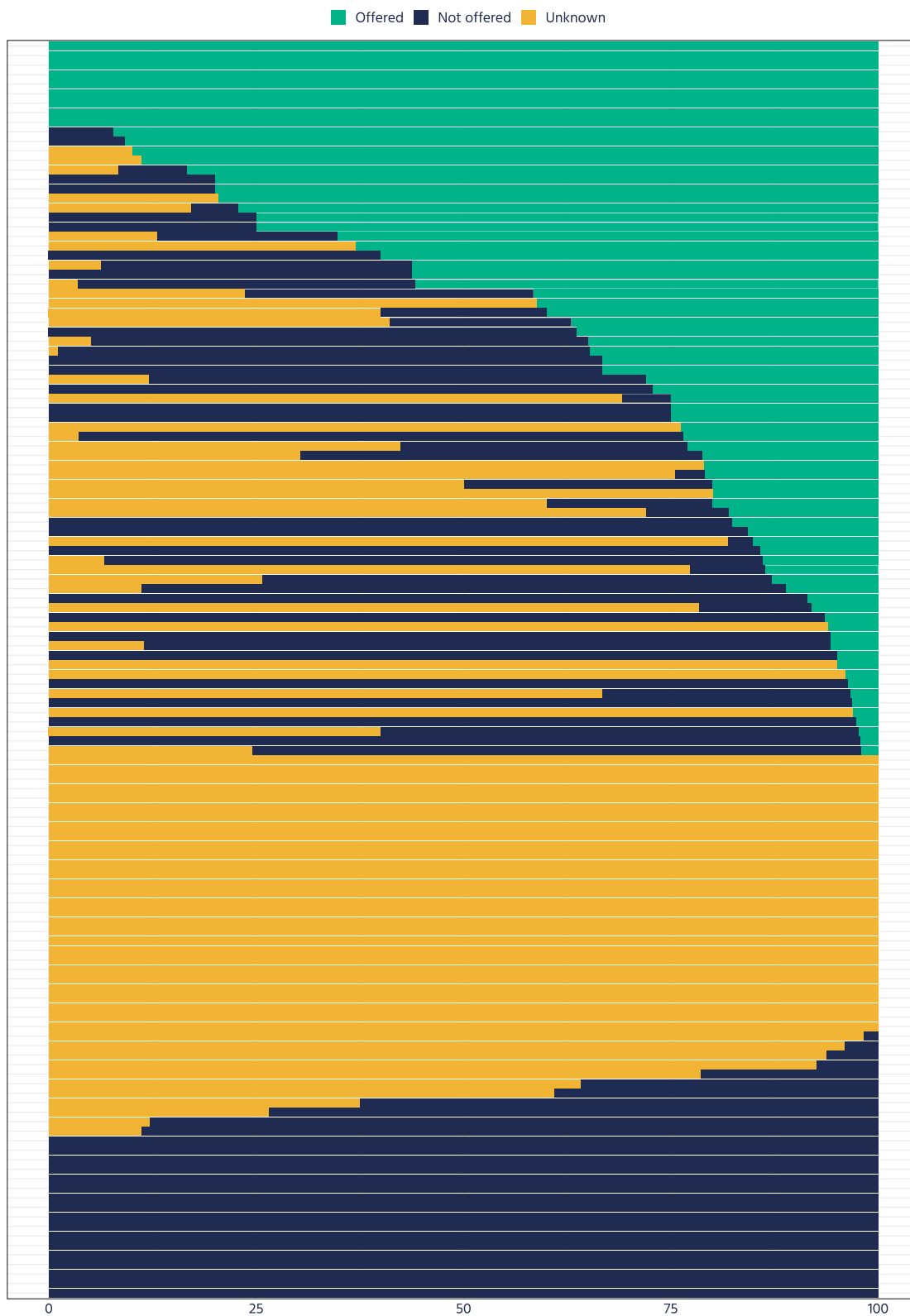
Where children were offered an advocate, and information was available on whether they accepted or declined the offer, children accepted the offer just over half of the time (55%). Overall, 38% accepted, 31% declined, and this information was not known for 30%.

Figure 9: Children who were offered an advocate and whether the offer was accepted



The data shows that there is variation in practice around the country when it comes to the provision of advocacy. In some areas all children are offered an advocate when they present as homeless, whereas in others no children are (Figure 10).

Figure 10: Variation in percentage of children offered an advocate by local authority



Help at Hand case study

'Georgia' is 16. She disclosed that she was subject to physical and emotional abuse at home and fled. At first the local authority accommodated her in a B&B with adult men. Georgia felt very unsafe and went to a friend's house. The friend's parent offered to care for Georgia but the local authority told Georgia that this would not be possible. The local authority told Georgia that she could stay with the family but would not be able to be made a looked after child. They told Georgia and put in writing that, if she wanted to be a child in care, it was likely she would be moved miles away and would have to leave her school and friends. Georgia was scared to leave her school and friends and did not know what to do. The local authority then proceeded on the basis that they did not have "consent" to accommodate her under section 20. The local advocacy service had a backlog and could not assist at this point. The parent of Georgia's friend and Georgia called Help at Hand which resulted in the team setting out their concerns to the local authority about the case. An advocate was then allocated to Georgia, she was then subsequently offered section 20, and an assessment of the family friend as a potential long-term carer was promised.

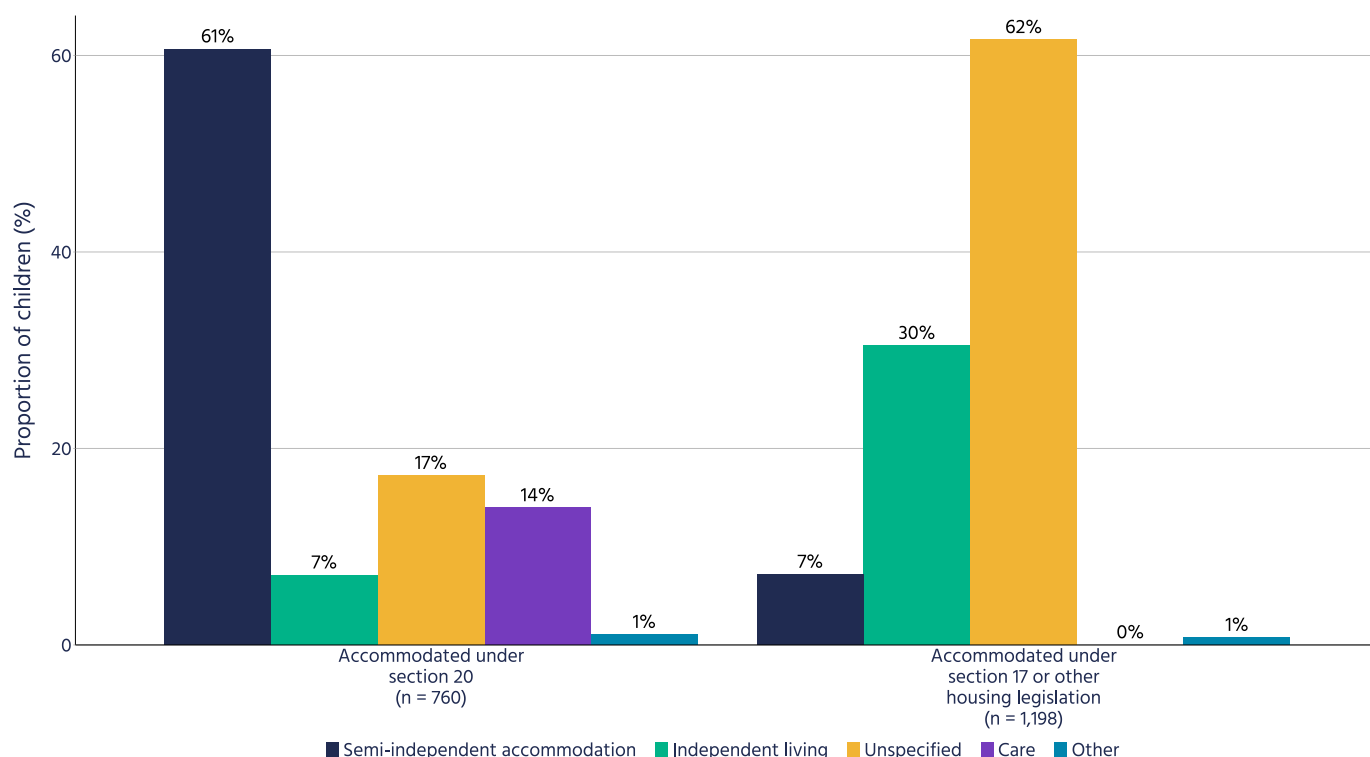
4. Where children are accommodated by the local authority

This chapter sets out the type of accommodation children are placed in, and how that varied depending on the legislation used. It also includes accounts from children about the quality of the accommodation they were given.

4.1. The accommodation children are placed in can be inappropriate and dangerous

Children who presented as homeless are very unlikely to end up in settings that legally provide care – such as children’s homes or foster care. The most common types of accommodation local authorities placed children in was semi-independent accommodation (28%), followed by independent living (21%), then care settings, which includes both foster care and children’s homes (6%). Among children in semi-independent accommodation, 43% were in accommodation exclusively for those aged under 18, while 39% were in mixed aged accommodation, and local authorities did not specify for the remaining 17%.

Figure 11: The types of accommodation provided by legislation type



The office spoke to children who had been placed in a range of accommodation settings, including semi-independent accommodation (often with adults)^{xi}, supported lodgings^{xii}, foster care and children’s homes.

Twelve of the analysed Joint Protocols reference the suitability of types of accommodation for 16- and 17-year-olds. All but one only specify the kinds of accommodation that is not suitable, specifically bed and breakfasts.

The team heard of instances where children were placed in accommodation that was wholly inappropriate and posed a danger to the child’s physical and mental health, and the consistency of their relationships and education. Children are often placed in accommodation where there is minimal or no onsite support from adults. Children in semi-independent accommodation spoke about feelings

^{xi} Semi-independent accommodation provides children and young people with accommodation that aims to support young people to develop their independence and prepare for adult.

^{xii} Supported lodgings services provide a child or young person aged between 16 and 24 with a room of their own in a private home and support from the supported lodging host.

of loneliness, with support workers not knowing their names. The support on offer was often focused on the purely practical, but as one young man said: *'Children need to know they are loved, and be shown love'* – Young man, 19.

Reflecting on her experiences, a young person told the team: *'I was put in temporary accommodation – living with crack-heads, was sexually harassed. A man pisses in the kitchen. It's meant to only be 6 weeks. I now have a PA and a social worker, there's light at the end of the tunnel'* – Girl, 21.

Children spoke about their experiences of being placed in accommodation with adults with alcohol and substance addictions. One child said: *'So I was in a hostel that weren't for young people like me, it was an adult hostel, so, you know, I found it quite disturbing [...] Just scary because it's you know people, just not nice people, you know that abuse drugs, do bad things'* – Girl, 17.

There was a general sense that children often struggled to get access to practical help and advice. The team heard from a young person who said: *'I didn't even get any help moving in – I literally got a trolley from Sainsbury's to move my boxes'* – Girl, 21.

In contrast, reflecting on her experience of being placed in a children's home, one child said: *'I like my room because my room [in a children's home] is a bigger room and I have more space to do things like I've never really had a desk, but I have a desk now. I do like the staff. They're really nice and they do help me a lot'* – Girl, 17.

4.2. There is a lack of ambition and commitment to helping children succeed in education

Only three of the analysed Joint Protocols mentioned the child's education in relation to their experience of homelessness and recognised the need for appropriate accommodation and support to continue or re-engage in education or training.

Children the team spoke with often reflected negatively on the lack of ambition and culture of low aspiration within some of the supported accommodation settings.

Reflecting on her experience of living in a hostel, a young person told the team: *'Once you go into a hostel it sort of kills your educational dreams. If you go to a hostel, you just get lost, there is no end goal, am I going to get my place or not, am I going to get a good education or not'* – Girl, 21.

It was clear that for many children, having access to education and a clear route to university was of paramount importance. Yet children often talked about the challenges they faced with accessing appropriate accommodation given their circumstances.

One girl the team spoke with talked about her commitment to education, and how the placements she was offered were too far away: *'And that would mean having to give up college, for me university is the only way to get out, to escape, sort of thing, so that was my priority, and that just wasn't an option for me'* – Girl, 18.

Another child talked about the impact that a long commute to college had on her wellbeing and education. She said: *'And so I didn't change school, but I did commute one hour 30 minutes to college every single day. [...] I didn't reach my full potential as I could have [spent] less time travelling and more time, more time studying or feeling less drained'* – Girl, 18.

4.3. Stability of placements

The office asked local authorities to report on the last known accommodation status of children after they presented as homeless. This could be up to 16 months after their date of presentation as homeless.^{xiii}

For children who were accommodated, of those accommodated by their local authority in semi-independent accommodation, 75% were last known to still be in semi-independent accommodation.^{xiv} In comparison, of those placed in independent living, only 21% were still in independent living: 49% had moved to semi-independent accommodation, and 14% had moved to living with their family. While local authorities were not asked to provide reasons for the change in accommodation type, it is notable that independent living does not seem to have been a sustainable option for many children.

^{xiii} The office asked for data covering the period April 2022 to March 2023, and the data collection deadline was July 2023, allowing for a maximum duration of 16 months between presentation as homeless and last known accommodation.

^{xiv} This may be the same or a different location; local authorities were not asked for children's postcodes so the office cannot say whether children's last known accommodation statuses represent stability or change.

5. Children who are not accommodated by the local authority

This chapter sets out how many children are not accommodated, and the reasons for that. It shows that sometimes children are presenting multiple times before they get help and suggests that there is variation in the quality of support offered to children who end up staying at home. It shows that some children are finding alternative temporary solutions such as sofa-surfing before they get help.

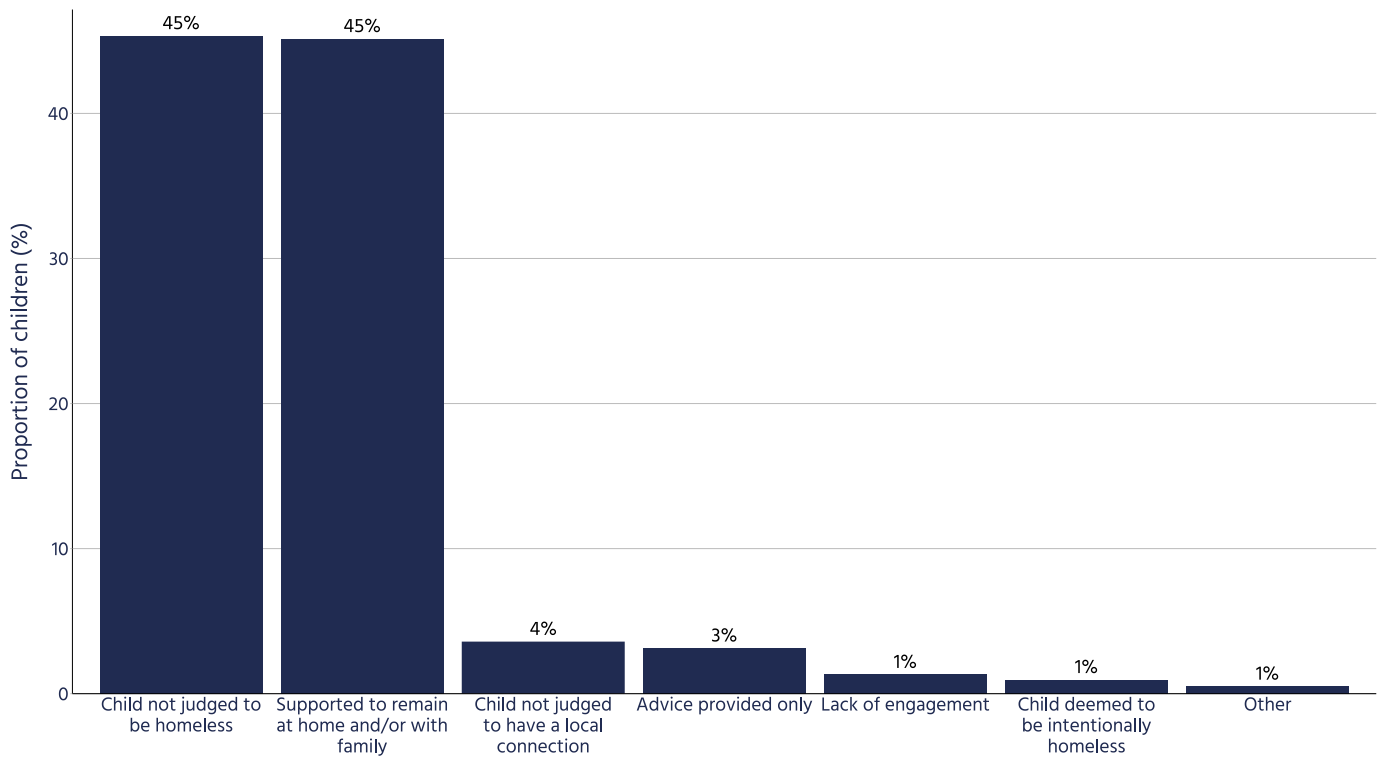
5.1. The numbers of children who are not accommodated

The office asked local authorities to report on the decisions they made about how to support children who presented as homeless. A range of options were provided to local authorities when reporting on accommodation offered to children.^{xv} 41% (1,978) of children were not accommodated by the local authority at all at the point of presentation as homeless, and local authorities did not submit this data for a further 19% of children. The majority of children not accommodated were either 'not judged to be homeless' by the local authority (45%) or 'supported to remain at home and/or with family' (45%).^{xvi} It is notable that 1% of children not accommodated weren't accommodated because they were 'intentionally homeless' – the statutory guidance states that if a child is found to be intentionally homeless children's services should be notified and should accommodate the child under section 17.

^{xv} The options were: offer of accommodation under section 17 of the Children Act; offer of care under section 20 of the Children Act; offer of accommodation under any other section of the Children Act; offer of accommodation under the Housing Act 1996; offer of accommodation under any other homelessness legislation; not accommodated as child was deemed to be intentionally homeless; not accommodated as the child was supported to remain in home; not accommodated as the child was not judged to be homeless; and not accommodated as the child was not judged to have a local connection.

^{xvi} The category of 'supported to remain at home and/or with family' also includes 17 children whose local authorities did not accommodate them because they were instead supported to: 'return to friend'; 'remain in network'; 'return to support accommodation'; or because their local authority 'prevented' the homelessness.

Figure 12: Reasons given for children to not be accommodated



5.2. The risks for children who are not accommodated

If it is possible for a child to remain safely at home with their immediate or extended family, that is what should happen. With the right support, family relationships can be repaired, and challenges can be overcome. However, as this section shows, sometimes children who are not accommodated are having to present multiple times before they get help and are pushed into precarious situations in the meantime.

Analysis of the joint protocols conducted by the office gives some indication of what happens when a child is not accommodated. All 22 of the joint protocols analysed by the office state that their primary aim is to prevent homelessness and support 16- and 17-year-olds to stay at home. However, of these, only 7 protocols provide further detail on the tools or specific teams used to support a child to remain at home and prevent them from becoming homeless. These approaches include Family Group Conferences, mediation, referral to a Family Therapist, and offering support from an Early Help Worker, as well as looking at a young person’s wider network to identify any alternative family members or

friends that could provide accommodation. Seven of the analysed protocols specify that the child's parents should be contacted during the assessment process. Of these, four caveat that the safety and consent of the young person should be considered prior to the contact being made.

It is notable that our research found that while the majority of children were presenting as homeless for the first time (65%, 3,149 children), and this data was missing for 18% of children, 14% (666 children) had presented once before and 3% (133 children) had presented twice before. This shows that some children are having to seek help multiple times before receiving the support they need. Some of the young people interviewed for this report described their first experiences of seeking help with homelessness. They explained that when no formal support was offered they would sofa-surf or live with friends – indeed, the data shows that almost a sixth of children (15%) were reported to be living with friends before their presentation as homeless.

Children reflected on the instability and precarity of staying with a range of friends and relatives. A child told the team: *'I was sofa-surfing friends, aunties, my sisters, constantly up and down, left and right, nothing stable, I could be here in six months, I could not be in six months really'* – Young woman, 21. Another child said: *'I stayed with like friend after friend after friend until social services did sort me out a place to stay at finally'* – Girl, 17. Children also reflected on the lack of support they received while living with friends. One young person said: *'There should have been a lot more support for me when I was living with my friend, I think it's just the system, the lack of money, there should be more options, not just putting you back in with your abusive parent or moving far, far away'* – Girl, 18.

While staying with friends or wider family members can be the best solution for some children who are unable to stay at home, it is essential that this is done with the right level of support and continued assessment of whether the arrangements are appropriate and sustainable. If children are forced into precarious sofa-surfing arrangements, it is likely to simply create problems further on. One Joint Protocol analysed highlights specific risks and vulnerabilities faced by homeless 16- and 17-year-olds:

'It should be noted that the risk of sexual and other types of exploitation of young people who are 'staying with friends' or 'sofa surfing' is potentially high.'

6. Unaccompanied children seeking asylum

This chapter sets out the differences in the way unaccompanied children seeking asylum are accommodated. They face specific challenges and have a unique set of circumstances. As with all other children, the Commissioner's expectation is that UCSA should be in care until they are at least 18 and have access to a high quality advocacy offer.

6.1. Accommodation provided to UCSA

Unaccompanied children arrive in the UK by themselves and therefore engage with the social care system in a unique way. While the Commissioner is clear they should be in care from the day they arrive, with all the rights and protections that provides, at present the majority of 16- and 17-year-old UCSA are accommodated first by the Home Office and then transferred to local authorities after a variable period through the National Transfer Scheme. What happens next can vary, as is set out below. This report does not include data from Kent local authority, where the majority of UCSA first present. It therefore does not address the serious issues for children accommodated in hotels, with no legal care status, which the Children's Commissioner has repeatedly raised. In the coming months the Children's Commissioner plans to report separately on what happens to children when they first arrive into the UK. This section and these recommendations are therefore largely focused on the needs of UCSA when they are coming into care – but it is equally vital that they are not denied care status because of being accommodated by the Home Office.

UCSA need the same things as all other children– love, stability, and the chance to achieve their goals. But they are also likely to have some specific needs, which were highlighted in the visits conducted for this report. ^{xvii}

Among UCSA offered semi-independent accommodation, 61% were placed in mixed age group semi-independent accommodation; 27% in semi-independent accommodation exclusively for under 18s; and 12% in semi-independent accommodation where the local authority did not specify the age group. For

^{xvii} To better understand the range of accommodation offered for UCSA, the team visited '1625 Independent People', a charity based in Bristol. The charity provide support for children and young people aged 16-25 to access housing support services, ranging from earlier intervention services to accommodation for homeless children and young people. The team visited two forms of accommodation where unaccompanied children were accommodated. This included an independent living setting - a three-bedroom house - and a semi-independent supported accommodation for children.

non-UCSA offered semi-independent accommodation, these proportions were 39% in mixed age group accommodation, 43% in accommodation exclusively for under 18s, and 17% where the age group was unspecified. UCSA were therefore more likely to be placed in mixed age semi-independent accommodation than their non-UCSA counterparts.

Overall, 79% of UCSA offered accommodation were placed in some form of semi-independent accommodation. A further 8% were placed in children's homes or foster care and 4% were placed in independent living. By comparison, 28% of non-UCSA were placed in semi-independent accommodation, 6% in children's homes or foster care and 21% in independent living. Local authorities did not specify the accommodation offered for 44% of non-UCSA. Data on whether the children had named support officers is very poor, with local authorities not returning this information for 48% of accommodated UCSA. Using the available data, among UCSA accommodated in mixed age group semi-independent accommodation, 66% had an on-site named support officer. This figure dropped to 20% for UCSA accommodated in exclusively under 18 semi-independent accommodation.

UCSA have often experienced complex trauma on their journey to the UK. Despite the needs of unaccompanied children varying greatly, currently the vast majority of children are accommodated in semi-independent accommodation when they present as homeless. There is an urgent need for a greater recognition of the complexity of the challenges these children have faced and therefore the level of care and support they will need when accommodated by their local authority.

6.1.1. Contingency hotel accommodation

The Home Office has for some time used temporary contingency accommodation, in the form of hotels to accommodate children while they await transfer to local authority care. The data on children in contingency hotel accommodation is not included in this report, as the Children's Commissioner has separately requested it from the Home Office. However, the Children's Commissioner has significant concerns about the placement of children in these hotels. Importantly because they are not legally 'looked after' they will face many similar challenges to 16- and 17-year-olds who are not accommodated under section 20.

There are also other specific issues. For older unaccompanied boys seeking asylum, there are often instances in which these children are wrongly age assessed to be adults and as a result are placed in hotels with asylum seeking adults.

The team heard from two children who were wrongly age assessed and therefore initially placed in hotel accommodation with adults. One of the boys told the team he was placed in a hotel with adults for two months when he first arrived and felt isolated. Talking about the hotel he said: *'A jail for me... Didn't go out of my room for one month'* – Boy, 17. The same child also told the team that he didn't get educational support and was often bored. He said: *'I was just waiting around all day, playing PlayStation and YouTube'* – Boy, 17. The Children's Commissioner has consistently reiterated her view that contingency Home Office run accommodation is not appropriate for children, particularly in instances where unaccompanied children are wrongly placed in hotels with adults.

6.2. Characteristics of UCSA presenting as homeless, and the legislation used to accommodate them

Of the 1,089 UCSA children in the office's data from local authorities, 95% were male, and 55% were aged 16 on the day that they presented as homeless. Of the UCSA, 92% were accommodated, and only 15 children were not^{xviii}. The vast majority (90%) of UCSA were accommodated under section 20 of the Children Act. This is likely because UCSA do not have any legal right to housing under the Housing Act 1996. Local authorities took an average 12 days to reach a decision for UCSA (a minimum of 0 and a maximum of 365), compared to 37 days for non-UCSA children (a minimum of 0 and a maximum of 510). While both of these average timeframes are within statutory timeframe of 45 days as defined in the joint guidance, it is deeply concerning that children are left in limbo for these extended periods.

6.3. Advocacy offer

UCSA who present as homeless should have the same right to an advocate as any other child being assessed. Of the children included in this data return, 50% of UCSA were offered an advocate, 24% were not, and the local authority did not return this information for the remaining 25%. Among those who were offered an advocate, 38% accepted, 8% declined, and the local authority did not return this information for the remaining 54%.

This means 19% of UCSA were known to have been offered and accepted an advocate, compared to only 7% for non-UCSA.

^{xviii} Of the 15 UCSA who were not accommodated, most were judged to not be homeless or to not have a local connection.

6.4. Unaccompanied children's accommodation requirements

Access to legal advice and support

The team heard about the importance of children getting regular support with navigating their asylum claim. It was clear that the asylum process was anxiety inducing for children and that the outcomes of the claims, as well as the speed at which the application is progressed is unpredictable. The support workers reflected on the need for children's expectations on the outcome of their claim and speed of the process to be carefully managed. Central to this was the need for consistent interpretation services to be in place to support children, their solicitors, support workers and social workers to maintain regular contact and troubleshoot any issues with the application as they arise.

Education and English language support

It was clear from speaking with the four children that they were motivated to develop their English language skills. Children spoke about the value of the English language tutoring they received, and support staff echoed this.

Help at Hand Case Study

'**Abdul**' was a 17-year-old unaccompanied child seeking asylum when he became looked after by his local authority in 2021 and was placed in unregulated accommodation in a shared house with other 16- and 17-year-old UCSA. This was supposed to be 'supported accommodation' but Abdul reported that the support worker did very little and he and the boys were expected to maintain the house themselves. He was frustrated because his housemates left the communal areas messy and dirty, and he showed photographs of the house to be in a poor state, with damp and in disrepair. He had reported this to his social worker but was told it was 'not a hotel' and advised to contact the accommodation provider, a private company. Abdul was asking for clean, well-maintained accommodation with more support on-site to help him and his housemates deal with any issues. He felt unable to focus on his studies and other areas of his life while he was uncomfortable where he was living. He was supported to access an advocate and Help at Hand worked with them to raise Abdul's concerns with the local authority. After a meeting with professionals and the accommodation provider, they acknowledged Abdul's points about the property and moved him to better quality accommodation, which he was happy to accept.

7. The way forward

This chapter presents recommendations about how children who present as homeless can be better supported. It covers recommendations for all children, and specifically for unaccompanied children seeking asylum separately.

7.1. Children should be given their entitlement to care by default

It has been 14 years since the Southwark judgement set out that section 20 of the Children Act should be the primary way for children presenting as homeless to be cared for. It has been 13 years since the first statutory guidance was issued. And yet still today 61% of children are being accommodated under other sections of the Children Act or housing legislation. This is deeply shocking. A 16- or 17-year-old should not be considered 'homeless' in the way that an adult is – if they cannot live at home, then they need to be in the care of the local authority who can act as their corporate parent.

Children are being presented with care under section 20 or section 17 as a choice. It is hard to see how a child could ever make a genuinely informed decision about the difference between section 20 or section 17, with no experience of either and at a deeply stressful moment in their lives.

Recommendation: Every child who the local authority assesses as in need of accommodation should be accommodated under section 20 by default. If a local authority believes that a child is no longer in need of this support, or a child is refusing to accept accommodation on these grounds, then a care planning review meeting should be held and an independent advocate must be allocated to the child. The Independent Reviewing Officer must only ever agree to a child being supported under section 17 and accommodated under housing legislation, if they are satisfied that the child has been fully informed of their housing options and has had access to independent advocacy. In these instances, a child's placement must be regularly reviewed and children should be reminded of their right to section 20 care. Local authorities must be adequately resourced to fully adopt these processes.

Recommendation: The joint statutory guidance clearly stipulates that children who present as homeless should be offered access to an independent advocate to help them to assess the options available to them. Yet, as this report has found, local authorities could not answer whether children had been offered an advocate for almost half (47%) of children who presented as homeless. An opt-out model of advocacy must urgently be adopted by the Department for Education, with every child proactively offered an advocate. Local authorities should record data on how many children

presenting as homeless are offered an advocate. In an upcoming report looking at the availability and quality of advocacy services across England, the office will make recommendations for how to improve the quality and effectiveness of advocacy services.

Recommendation: The joint statutory guidance should be updated to reflect the changes outlined above and make clear that these children are not to be considered 'homeless' but children in need of support from children's social care. Local authorities should produce updated information for children about their rights and entitlements if they become homeless.

Recommendation: The Department for Education should produce a guidance document for local authorities to support social workers and advocates to present information to children about the implications of refusing section 20. This guidance should reiterate that section 20 should take precedence over section 17 and housing legislation, and set out what refusing section 20 will mean in terms of their entitlements at 18. Alongside this, the Department for Education should produce child friendly resources for children about their rights and entitlements to care as a child who is homeless at age 16 or 17.

Recommendation: As the data in this report has shown, children are often waiting extended periods for a local authority assessment of their needs. It is essential that, as set out in the statutory guidance, children who present as homeless and have nowhere safe to stay are given emergency accommodation under section 20 whilst they await a full assessment.

Recommendation: Data should be collected in the annual Child in Need and Looked After Child census on the number of children who are accommodated under section 17 or housing legislation as well as section 20, and where they are placed.

Recommendation: The office welcomes Ofsted's practice of assessing the quality and consistency of responses by local authorities to 16- and 17-year-olds who present as homeless. To give inspection teams a comprehensive view of local authority practice, Ofsted should ask for data on the number of children who are placed under section 17 and housing legislation ahead of an inspection of local authority children's services.

7.2. More ambition is needed for the standards of accommodation for 16- and 17-year-olds

Every child who cannot live with their own family deserves to live in a loving, homely environment where they can receive care – no matter their age.

This report shows that even when children are accommodated under section 20 as looked after children, many are placed in accommodation that the office considers to be inappropriate for children. 61% of children accommodated under section 20 were placed in semi-independent accommodation, with 41% of those children placed in settings with homeless adults. The picture appears even worse for children only accommodated under section 17 or other housing legislation.

While the needs of 16- and 17-year-olds differ in some practical ways, all children need love and stability to grow into independent adults. Children aged 16 and 17 should be accommodated in settings that can provide them with safety and the opportunities to develop strong relationships with adults that they can sustain throughout their lives.

That is why the Children's Commissioner considers that the new standards in place for supported accommodation for 16- and 17-year-olds must be seen as only the first step towards ensuring that every child in care is living in a setting that is able to provide them with care rather than just support.^{xix} It is also essential that the group of children identified in this report are not left out from regulatory reform. As it stands, the regulations will not apply to children housed under section 17 or housing legislation, which means they can continue to be placed in entirely unsuitable unregulated accommodation.

Recommendation: The office welcomes the Department for Education's plans to develop an overarching set of care standards for all settings in which children are accommodated. These should be based on existing foster care and children's homes standards. While the models of care that children receive should be flexible and adaptable to their needs, all children, whatever their age, should live in settings where they are legally entitled to care as well as support.

^{xix} References within this report to the new regulations for supported accommodation refer specifically to the regulations and quality standards for supported accommodation for looked after children aged 16 and 17. The office does not refer to the Supported Housing Bill within this report and is clear that the regulations proposed within that Bill would not appropriately meet the needs of children.

Recommendation: The Department for Education should use the findings from the first year of supported accommodation inspections to develop the universal care standards, and set out a development plan for how every supported accommodation setting could adhere to standards that would allow them to legally provide care.

Recommendation: The Ofsted inspection framework for supported accommodation should be designed in line with the social care common inspection framework, with aligned outcomes of inspections, and timings of inspections. In addition, some urgent changes are needed to the supported accommodation standards.

Recommendation: The Department of Education should amend the third category of supported accommodation regulations to ensure that children aged 16 and 17 are not placed alongside homeless adults that are over the age of 25. Every child placed in supported accommodation should be entitled to a Staying Put arrangement that allows them to stay until age 25 if they would like.

Recommendation: Any provider of housing for children aged 16 and 17, regardless of the child's legal status, should have to register under the new supported accommodation regulations.

7.3. Ongoing support once children turn 18

Children who have experienced the trauma and instability of being homeless should be supported to access all of the care and support that they need to thrive well into adulthood. As children turn 18 and become adults, they need a strong network of supportive relationships, as well as financial and practical support to help set up their lives and pursue their dreams.

Sadly, although there are legal duties in place to support care leavers, they are still too likely to experience homelessness, and more must be done to urgently address this. However, the group of children identified in this report who were accommodated under section 17 or other legislation, do not even have the legal protections of care leavers, and will also need additional support once they turn 18.

Recommendation: Group four of the Homelessness Priority Need for Accommodation Order 2002 should be updated to ensure that care leavers are considered in priority need until the age of 25.¹⁰

Recommendation: Every child that has experienced homelessness and has not been looked after under section 20 should have access to independent advocacy until the age of 25 and be given advice about how to challenge their previous care status if applicable.

Recommendation: In recognition of the importance of stable relationships in the lives of care leavers, the government should ensure that every care leaver can access a Staying Put arrangement or benefit from a Staying Close scheme. As category two of the new supported accommodation regulations allows for looked after children to be accommodated alongside care leavers, children should be able to choose at 18 whether to stay in their supported accommodation until at least the age of 25.

7.4. The wider shifts needed across the sector

7.4.1. Early help reforms

Of the 4,879 who presented as homeless last year, almost half (41%) were not accommodated. Of the children who were not accommodated, almost half (45%) were 'supported to remain at home and/or with family'. While children's experiences are varied, some we spoke to for this report reflected on the lack of support they received when they approached children's services for help.

While the office came across some examples of support services that aim to prevent homelessness, such as family mediation, there is clearly a pressing need for children and families to get timely and appropriate support at the earliest point before issues escalate.

While the office welcomes the government's focus on strengthening the early intervention support that families receive through the Family Help reforms, the office believes these reforms need more ambition, and that they must be given the resource and strategic direction they need. In addition, specific actions should be taken to improve the quality of support when children present as homeless.

Recommendation: The joint statutory guidance should require all local authorities to set out in their joint protocols what interventions will be used to support children to remain safely at home with their families.

Recommendation: The Families First for Children Pathfinders being funded by the Department for Education should include specific focus on how 16- and 17-year-olds can be supported to remain safely within their family networks if they present as homeless. This should test out innovative approaches and joint working with partners such as local charities. This pathfinder should explore alternative

models of more flexible care that enable older children to maintain their family relationships while receiving other forms of support that ensure that their needs are met.

Recommendation: For some children aged 16 and 17, moving into a kinship care arrangement with family relatives or friends may be the best option. In these instances, it is essential that both children and kinship carers get the right support. The Department for Education's Kinship Care strategy must set clear direction for how kinship families will be supported and sustained through greater financial support, legal aid, as well as enhanced training to equip carers to meet the needs of the children they care for.

7.4.2. The need for more specialist foster care for older children

Family-based care, such as foster care, is the most supportive environment for children. Yet, the data the office has collected from local authorities shows that only 2% of children who presented as homeless were taken into foster care.

The office welcomes the pilot programme in the North East to support prospective foster carers as set out in the Government's strategy for children's social care, *Stable homes built on love*. However, the office recommends that the approach be further strengthened.

Recommendation: The government's social care strategy should include a nationwide recruitment drive for specialist foster carers for older children, including unaccompanied children seeking asylum, who are currently more likely to be placed in supported accommodation.

7.5. Urgent next steps

The Children's Commissioner considers that significant reform is needed to ensure that all children have their rights to care upheld. However, in the interim, the Children's Commissioner will write to Directors of Children's Services (DCS) in England who have reported that they were accommodating over 90% of children under section 17 or other legislation to remind them of their duties to children as set out in the joint statutory guidance. The Children's Commissioner will remind Directors that local authority duties to a child under section 20 of the Children Act 1989 take precedence over their general duty under section 17 of the Children Act 1989 or their duties under Part 7 of the Housing Act 1996. Moreover, the Commissioner will remind Directors of the requirement for children who present as homeless to be offered access to an independent advocate to help them to assess the advantages of the accommodation options available to them.

7.6. UCSA recommendations

To support UCSA to integrate into their local community and school environment it is vital that that children have access to a consistent and high-quality English language education offer from the moment they are placed on roll at a school.

Recommendation: The Department for Education should work with local authorities with a high number of UCSA to pilot an English for Speakers of Other Languages programme that should run alongside a child's education to help them thrive in a mainstream school environment where appropriate.

Recommendation: The Home Office must not commence the powers to accommodate children contained within the Illegal Migration Act. All UCSA should be in care from the day they arrive in the country. UCSA who missed on their entitlement to leaving care provision because they were accommodated by the Home Office rather than being looked after must retrospectively be judged as care leavers.

Recommendation: The Department for Education should amend the Ofsted inspection framework so that local authorities can be inspected and held to account for whether they take sufficient numbers of children under the National Transfer Scheme.

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