

# Hitting brick walls:

## Barriers faced by homeless care leavers

### Introduction

Young people are more vulnerable than ever to homelessness. Between 2016/17 and 2019/20, youth homelessness increased by 40%.<sup>1</sup> In 2020/21 over a fifth of households accessing local authority support to prevent or end their homelessness were aged between 16-24.<sup>2</sup>

Worryingly, this trend has accelerated under the Covid-19 pandemic as young people at risk of homelessness were particularly vulnerable to volatile housing situations during the pandemic. Sofa surfing was no longer a valid option, alongside the impact and pressure lockdown had on increasing family breakdown.<sup>3</sup> Government data shows young people aged 18-24 were the only age group who saw an increase between 2019/20 and 2020/21 in statutory homelessness, in particular by households aged 16-24 without children who increased by 15%. In terms of rough sleeping, there was a 50% increase in young people who presented at their local authority as rough sleepers in 2020/21 compared to 2019/20.<sup>4</sup>

Being care-experienced means a young person is more likely to experience homelessness - one third of care leavers become homeless in the first two years immediately after they leave care.<sup>5</sup> It is therefore not surprising that homelessness amongst care leavers has also worsened since the pandemic. In the last two years, New Horizon Youth Centre (who provide housing support to under 25s in London) have seen an increase in

care experienced clients, from 24% in 2017-18 to 31% in 2020-21. This is echoed by Homeless Link's survey in 2021 - services reported the highest increase in care leavers rough sleeping compared to other cohorts (53%).<sup>6</sup>

Young people who were in care often have additional vulnerabilities, these are often even more acute if they went into care at an older age, which is happening more frequently. Due to the circumstances that lead to young people entering care, and local authorities' increased reliance on placing older looked-after children out-of-area, it is common for care leavers to sadly have little or no support network. This in turn means that the lower minimum wage and benefits for under 25s – which assumes support from family in early adulthood – have a disproportionate effect on their finances.

Austerity has also had a significant impact. Cuts to mental health funding and other early intervention services has meant that regrettably young people often do not get the support they need until they reach crisis point,<sup>7</sup> often leading to homelessness. Low benefits, wages and social housing stock, and an expensive private rented sector combine to create an extremely difficult environment for young people to secure, and keep, safe and stable housing. These structural barriers have all been further exacerbated by the pandemic.

1 The Guardian (18 October 2021) 'Youth homelessness has risen 40% in five years, says UK charity' <https://www.theguardian.com/society/2021/oct/18/youth-homelessness-up-40-per-cent-in-five-years-says-uk-charity-centrepoint>

2 Department for Levelling up, Housing and Communities (DLUHC) (2021) Statutory homelessness in England: financial year 2020-21

3 Homeless Link (2021) *Young and Homeless* <https://www.homeless.org.uk/sites/default/files/site-attachments/Young%20and%20Homeless%202021%20Final%5B2%5D%20copy.pdf>

4 DLUHC Statutory homelessness live tables

5 All-Party Parliamentary Group (APPG) for Ending Homelessness (2017) *Homelessness prevention for care leavers, prison leavers and survivors of domestic violence* [https://www.crisis.org.uk/media/237534/appg\\_for\\_ending\\_homelessness\\_report\\_2017\\_pdf.pdf](https://www.crisis.org.uk/media/237534/appg_for_ending_homelessness_report_2017_pdf.pdf)

6 Homeless Link (2021) *Young and Homeless* <https://www.homeless.org.uk/sites/default/files/site-attachments/Young%20and%20Homeless%202021%20Final%5B2%5D%20copy.pdf>

7 Young Minds (2 September 2019) 'Huge gaps in early support for young people with mental health problems'

Although the relationship between being care experienced and homelessness, and the impact this has on care leavers' lives, is well-known, significant gaps in support remain, both in national and local policy and practice. In our decades of practice at Just for Kids Law, New Horizon and Youth Legal, we have seen hundreds of care-experienced young people face unstable, unsafe housing and being thrown into homelessness. A quarter to a third of the young people supported by our housing solicitors are care-experienced.

While much can and should be done to prevent homelessness – a reversal of the policy of austerity and further investments in local authorities' services, social housing and better regulation of the private rented sector among others – this briefing focuses on the barriers encountered every step of the way

by care-experienced young people faced with homelessness. As one of our clients told us: “if I'm making an effort to help myself, it is very frustrating to keep hitting brick walls.”

In theory, the support care leavers are legally entitled to should mean that they would never be faced with homelessness. However, in practice the current system is not built to support homeless care leavers. From having to go through invasive interviews of their personal history to prove their vulnerability and being found 'intentionally' homeless when their benefits weren't enough to cover rent, to being stuck in temporary accommodation for years without being able to access affordable social housing in the area where they have been living for years, they are faced with barriers at every turn.

### ***What does the law say?***

**About care leavers:** Under the Children Act 1989 and the Children and Social Care Act 2017, local authorities must work with children in their care to plan for their transition to independence after 18, including ensuring that they have access to stable, suitable accommodation. This process is called pathway planning. A young person who was in care becomes a care leaver upon turning 18 and as such is entitled to ongoing support from their local authority until their 25th birthday, channelled through a personal advisor.<sup>8</sup>

**About homelessness:** Under the Homelessness Reduction Act 2017, in England anyone faced with homelessness is owed a prevention duty (when at risk of homelessness) and/or a relief duty (when homeless).

A minority of people are not eligible for assistance due to their immigration status, and this is determined by an initial assessment. A child who is in care should be supported by their social worker to secure their immigration status well before they turn 18 – otherwise they may be denied vital benefits and support, including when faced with homelessness.

Under both the prevention and the relief duties, the local authority has to “take reasonable steps” to help the applicant either keep their accommodation or if that fails, secure alternative accommodation. In neither case does this mean that local authorities have a duty to source and provide accommodation themselves. They must only provide “support and advice” laid out in a Personalised Housing Plan (PHP). In both cases, the local authority can end the duties owed early if they deem that the applicant is not cooperating with them.

If the applicant is still homeless once the relief duty ends, the local authority must complete a main duty assessment. A main duty assessment checks that the applicant is still homeless and eligible for assistance, and then whether they fall into one of the priority need categories and whether they are

<sup>8</sup> Here we use the term 'care leavers' to refer to Former Relevant Children e.g. a young person between 18 and 25 who was in care for at least 13 weeks after their 14th birthday, including some time after they turned 16. A care-experienced young person who does not meet these criteria may still be entitled to some support from their local authority after they turn 18 but not necessarily the full range of support described in this paragraph.

‘intentionally’ homeless. Only when the applicant is found to be owed a main duty (by having priority need and being unintentionally homeless) will the local authority have to provide accommodation, either through social housing or in the private rented sector. The main duty is only fully discharged when suitable permanent accommodation is found. In the meantime, local authorities have to provide temporary accommodation.

## Barriers in practice to seeking homelessness support

### Personal advisors not providing the necessary support to avoid homelessness

All care leavers should have a personal advisor (PA) who is responsible for providing them with advice and ensuring that they receive the support they are entitled to. In relation to their housing situation, this means making sure that the young person is in appropriate, stable and affordable accommodation, as well as planning for the long-term – including supporting the young person to apply to the social housing register (the waiting list for social housing) as soon as they turn 18.

In theory, should a care leaver face homelessness, they should be able to rely on the help of their PA to avoid crisis point. This help could take the form of the PA reviewing the young person’s pathway plan to ensure they are being supported appropriately, providing them with information about their options, stepping in to mediate with the property owner, negotiating a payment plan or the local authority paying rent arrears themselves, or supporting the young person to find an alternative arrangement.

But this is not our experience. Many of the referrals we receive for our legal or advocacy support come from young people whose PAs have let them down, in particular those who find themselves at risk of homelessness. Too often, our solicitors and youth advocates find themselves having to take on the role of PAs for care leavers. Research by Homeless Link,<sup>9</sup> which is echoed by the young people we work with, found that the majority of participants described their experiences with PAs as negative, and that a lack of consistency in the support they received was the greatest challenge. Young people reported that staff turnover meant they had several social workers throughout and prior to their experiences

of homelessness. This undermined young people’s ability to have meaningful contact and to build trust, and meant safeguarding risks were not identified, placing young people at further risk of homelessness and harm.

Young people we support have also told us of poor transition planning before they turned 18, leaving them vulnerable to issues with their housing. We frequently witness cases of PAs not accompanying young people to meetings with housing officers during the pathway planning process, resulting in young people being nudged towards the private rented sector instead of being put on the social housing register, without understanding the consequences of this choice.

This is not a symptom of an uncaring workforce. We see first-hand that even the best professionals cannot work well in a broken system. Over a decade of cuts to local government funding have meant that local government workers are having to manage with very restricted resources,<sup>10</sup> which inevitably leads to gatekeeping of these resources. When PAs were brought in by the Children and Social Care Act 2017, no additional funding was provided to resource these posts. Already stretched local authority budgets and this lack of dedicated funding have resulted in huge demands on their times, meaning they are not always able to fulfil their legal duties.

One of the most extreme ways we often see gatekeeping manifest is leaving care support being withdrawn from our clients once they turn 21, as illustrated by the case study below. This is illegal as since the Children and Social Care Act 2017 care leavers are entitled to continuing leaving care support after they turn 21 if they request it, regardless of whether they are in education or not.

9 Homeless Link (2020) *We have a voice: follow our lead: Young and Homeless* <https://www.homeless.org.uk/sites/default/files/site-attachments/Young%20and%20Homeless%202020.pdf>

10 Action for Children, National Children’s Bureau, NSPCC, The Children’s Society, and Barnardo’s (2021) *Children and young people’s services: Funding and spending 2010/11 to 2019/20*

## CASE STUDY

### A 22-year-old care leaver being denied ongoing support

I have been working with a 22-year-old care leaver who has multiple health conditions, physical and mental, financial issues, and great difficulty with daily functioning/accessing education as a result of her depression. She approached JfKL a year ago when the local authority threatened to close her case, and even after several letters from a lawyer, and multiple professionals' meetings to try to resolve the issue, we seem to be skirting around the same threat, and the answer is still the same. If she continues with education, she will be fine, if she doesn't there is no guarantee the local authority can continue to offer her support and a personal advisor, despite her requesting it. She has been told that if she is no longer in education, the local authority will close her case then do a 'post-21' assessment and decide whether or not to reopen it, and they will reserve the right to keep her case closed if they believe it to be in her best interests.

She is struggling to understand why they must do it in this order, and why they keep telling her they can't help her until she defines what type of support she needs when she has repeatedly asked for: mental health support, support with her health (for which she now has a carer), support with her education and employment, support with her financial situation (she has only recently come through a period of being in debt). She has been told repeatedly that her personal advisor cannot 'hold her hand', that they cannot continue to support her as they do, for fear of "setting her up to fail" by making her "reliant on services". (Just for Kids Law Advocate)

### Inadequate preventative support from local authorities to avoid homelessness

The progressive depletion of social housing stock has continued in parallel to the explosion of the private rented sector which, despite being often unaffordable and inappropriate for care-experienced young people, is often their only option. Following years of cuts to statutory services, local authorities are finding themselves without the resources necessary to provide appropriate support to those young people when they are faced with homelessness.

Despite the existence of joint Government guidance,<sup>11</sup> we find that services often do not work well together. Care leavers are subject to a postcode lottery for the quality of the support offered to them and can find themselves bounced between services. We frequently see care leavers who are faced with homelessness directed by their PAs to make a homelessness application with housing services, instead of receiving the leaving care support they are entitled to from children's services. Unfortunately, in our experience care leavers do not receive better quality support from housing services.

According to Centrepoin, over a quarter of the young people who approached their housing services as homeless in 2019/20 did not go on to receive the initial assessment they were entitled to.<sup>12</sup> Some young people are turned away after being told prematurely that they do not have priority need and are not eligible for any support, or that as they are sofa-surfing they are not homeless (which is untrue), or they get discouraged by the announced delays in the process and do not bother to go to the initial assessment. Care leavers faced with homelessness then find themselves with nowhere left to turn.

### Recommendations:

- ▶ All local authorities should develop a joint housing protocol for care leavers as recommended by the joint Department for Education (DfE)/Ministry of Housing, Communities and Local Government (MHCLG) guidance published in October 2020.
- ▶ As recommended by the joint DfE/MHCLG guidance, joint housing protocols should set out a clear duty on the personal advisor

<sup>11</sup> Department for Education (DfE) and Ministry for Housing, Communities and Local Government (MHCLG) (2020) *Joint housing protocols for care leavers: good practice advice*

<sup>12</sup> Centrepoin (2020) *Beyond the numbers*

to support the young person to access safe and suitable accommodation as part of the pathway planning process. Protocols should also mandate that personal advisors are involved, and the existing pathway plan considered, in the development of a Personal Housing Plan (PHP) for a care leaver.

- ▶ All local authorities must provide safe and suitable interim accommodation when the applicant is homeless and may have priority need.

### ***Local authorities not providing emergency accommodation***

Housing services also cut corners to cut costs. A homeless applicant will be entitled to interim accommodation while their application is being processed if the local authority is satisfied that they may have priority need. But our housing solicitors very often see cases where the local authority does not consider this, leaving vulnerable care leavers homeless for weeks or months at a time.

Even where the young person is provided with interim accommodation, the only option offered is not always appropriate or safe. However, refusing the offer would mean risking being left homeless while the young person's application is processed, as the local authority would have discharged their duty with the original offer. We find this is particularly prevalent for young people impacted by serious youth violence who are in particular need of safe accommodation.

## **Barriers in the current policy framework**

### **Proving priority need for care leavers**

#### ***Proving vulnerability***

#### **CASE STUDY**

#### **Joshua's story – A vulnerable care leaver not deemed to be priority need**

Joshua\* has been known to his local authority since he was a child. He was put into care and placed into hostel accommodation at 16, after a breakdown in family relationships. Though Joshua remained in local authority accommodation for several years, he was in and out of prison and mental health hospitals between the ages of 18 and 21 and had to be moved out of borough due to safeguarding risks. When he turned 21, the local authorities attempted to close his case but he was supported by New Horizon Youth Centre to retain leaving care support.

From the age of 21, Joshua faced several periods of prolonged homelessness and rough sleeping. He did not receive appropriate support from his local authority who also challenged whether he was in 'priority need'. Eventually the local authority argued that they would support him via their mental health pathway but he was considered too high risk for a number of initiatives. Aged 23, Joshua still spent a long period homeless, sleeping on friends' couches and walking around all night.

Throughout this period, New Horizon Youth Centre appealed several times for his local authority to accommodate Joshua but they stated they were unable to find a suitable place. Finally, aged 24 Joshua had to go to a mental health hospital again and on his release his local authority placed him in temporary accommodation. He is now awaiting a hostel place.

*New Horizon Youth Centre*

\*not his real name

As this case study demonstrates, once care leavers have completed a homelessness application and gone through the initial assessment, they face additional hurdles. One of the key tests for homelessness assistance is whether the applicant has ‘priority need’. A homeless applicant must have priority need in order for the local authority to owe them a ‘main housing duty’ (for them to be supported into long-term housing). The law sets out the different priority need categories.

Care leavers aged 18 to 20 automatically have priority need.<sup>13</sup> However, once a care leaver turns 21, they no longer automatically have priority need.<sup>14</sup> Instead, housing services need to establish whether they are “vulnerable as a result of having been looked after, accommodated or fostered”. To prove vulnerability, the young person must show they “would be significantly more vulnerable than an ordinary person would be if they became homeless”.<sup>15</sup>

We often witness local authorities asking for expert evidence of this vulnerability, which can be hard for a care leaver to gather without the help from a housing professional or lawyer. A lot of the time the evidence required is impossible - for example, some young people do not want to report gang issues for fear of repercussions or are suffering from mental ill health exacerbated by their unsuitable housing, but they can’t access the mental health services which they need to prove as evidence. Evidential requirements are also retraumatising. Unless they come fully aware of their rights and armed with all evidence necessary, care leavers may be told by housing services that they are not vulnerable and do not have priority need. At this stage, it is unlikely many would know that they could question that decision and how to do so without getting professional help.

#### CASE STUDY:

#### **Billal’s story – A vulnerable care leaver aged 21 deemed not to have priority need**

Billal\* arrived in the UK in 2015 as an unaccompanied asylum seeking child (UASC) and initially went into foster care. After turning 18, Billal had to leave an unsuitable placement and started sofa surfing. He was not able to continue with his education and was in and out of contact with his Youth Legal caseworker and solicitor.

Eventually Billal completed a homelessness application and was placed in temporary accommodation, which he then lost after leaving to go to visit his sister in a refugee camp abroad. On his return, Billal went back to sofa surfing and made a new homelessness application.

After being assessed by housing services, he was not found to have priority need: although he was a care leaver, by then he had turned 21. He was merely offered assistance from the local authority’s rent deposit scheme to secure housing from the private rented sector, despite his background as a UASC, not speaking English very well and having been homeless since leaving care at 18.

Billal’s housing solicitor requested a review of this decision as they deemed he did have priority need due to his vulnerability. They asked for Billal to be put in interim accommodation and for the local authority to accept a main housing duty and provide him with social housing. The review decision still found Billal not to have priority need.

*Youth Legal*

\*not his real name

<sup>13</sup> Article 2 and 4: The Homelessness (Priority Need for Accommodation) (England) Order 2002

<sup>14</sup> This includes all care-experienced young people who were in care after the age of 16, regardless of the length of time they were in care and whether or not they qualify for care leaving support.

<sup>15</sup> Department for Levelling Up, Housing and Communities (2018) Homelessness code of guidance for local authorities <https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities>

### *An inappropriate test for older care leavers*

Other parts of the UK have reconsidered the use of priority need categories in assessing who should receive homelessness assistance. Priority need has been altogether abolished in Scotland since 2012. The Welsh Government is now also considering reforming priority need after having commissioned a review of priority need in Wales in 2019-20. Oldham council have a pledge that care leavers up to the age of 25 will be considered automatically in priority need and not intentionally homeless.<sup>16</sup>

According to Government data, of the care leavers aged 21-24 who underwent a main duty assessment by March 2020 (540), about 31% (170) were found not to have priority need.<sup>17</sup> That is a significant proportion of older care leavers who were not rehoused by their local authority. Although those overall numbers may seem low, many care leavers who initially presented as homeless would have either given up on the official process or found alternative housing before reaching the main duty assessment stage. We also believe from our experience that care leavers who are faced with homelessness but have had previous negative experiences of statutory services are less likely to reach out for help altogether and instead rely on sofa-surfing, making the true scale of the issue hidden.

The vast majority of care leavers aged 21 and over who are faced with homelessness should meet the vulnerability test but have to navigate this additional hurdle at the same time as they are

being threatened with homelessness, negotiating with friends to be allowed to sleep on their sofas or sleeping in the streets. In England, the priority need test was extended in 2020 to survivors of domestic abuse to remove the burden on victims of having to prove they meet the vulnerability test. Similarly, older care leavers should not be made to prove their vulnerability by taking part in invasive psychiatric assessments, paying their GP for a letter laying out their health issues or recounting their past traumas multiple times to statutory services.

Given the new duties in the Children and Social Work Act 2017 extending support to care leavers to age 25, and the extension of the Shared Accommodation Rate exemption to all care leavers up to 25,<sup>18</sup> it is difficult to understand the need for a cut-off age of 21 for care leavers in relation to priority need.

- ▶ The Government should amend the Homelessness (Priority Need for Accommodation) (England) Order 2002 to extend priority need to include all care leavers under the age of 25.
- ▶ The Government should amend the Homelessness Code of Guidance to include a duty for local authorities to assess whether a young person aged 18 to 24 presenting as homeless should have been made a looked-after child when under 18 and thus should have care leavers entitlements, including priority need.

### ***Young people at the edge of care***

Some of the most common cases we encounter are young people who approached their local authority for support when they became homeless at the age of 16 or 17 but did not receive the support they were entitled to under statutory guidance and the well-known Southwark judgment.<sup>19</sup> Instead of being housed by their children's services under section 20 of the Children Act – and becoming looked after – these children were accommodated under a different provision and/or by housing services.

<sup>16</sup> Oldham Homelessness Prevention and Reduction Strategy 2021-26

<sup>17</sup> MHCLG (2021) *Statutory homelessness in England: Flows for care leavers, 2018-19*

<sup>18</sup> Since June 2021, all care leavers up to age 25 are entitled to a higher rate of housing benefit/Universal Credit. Before this, once care leavers turned 22, their benefit entitlement dropped to the lower Shared Accommodation Rate.

<sup>19</sup> Just for Kids Law (2020) *Not in Care Not Counted*

<https://justforkidslaw.org/what-we-do/fighting-change/campaigning/housing-and-social-care/not-care-not-counted#:~:text=Just%20for%20Kids%20Law%20has,dueto%20a%20legal%20loophole.>

This has meaningful long-term effects on their adult lives, as they are not entitled to leaving care support upon turning 18. This means that they do not automatically have priority need if they are faced with homelessness, as they would have if they were a care leaver under the age of 21. More information on this can be found in Just for Kids Law's 2020 report [Not in Care, Not Counted](#).

One such young person – Joe\* – was referred to our services at 18, after he was found to be sleeping in a church hall. He had been known to children's services from an early age and given a social worker but despite regularly being made homeless by his father throwing him out of his home, he was never put into care as a child. Our legal team convinced his local authority that he should have been put into care as a child and should now be treated as a care leaver. As a result, his local authority provided him with interim accommodation and later made him a permanent offer of social housing.

\*not his real name

### **Intentional homelessness**

Another barrier faced by care leavers is the one of intentional homelessness. Applicants can be found to be 'intentionally homeless' if they have left accommodation that the local authority deemed suitable, even if the young person was unhappy with or felt unsafe in the accommodation, if they fall behind on their rent and get evicted, or even if they become homeless as a result of having been incarcerated.<sup>20</sup> Someone who is deemed intentionally homeless will not be owed a main housing duty by the local authority and will not be supported into long-term accommodation, even if they have priority need otherwise.

Though the Homelessness Code of Guidance states that housing services should avoid intentionality decisions for care leavers aged 18-25, there is no clear duty on local authorities to do this. A 2017 report from the All Party Parliamentary Group on Ending Homelessness

raised concerns that intentionality was being used as a way of gatekeeping care leavers.<sup>21</sup> Care leavers may be more likely to be found intentionally homeless, as they often have little support system in place to help them avoid rent arrears for example.

From our experience, we find that many care leavers often have multiple vulnerabilities and may need accommodation that is tailored to their specific circumstances, but do not always get a choice of accommodation options. Instead, they are sometimes offered accommodation that exacerbates their mental health issues or puts their safety at risk. It is common practice in our organisation for our advocates and solicitors to advise their clients not to refuse a placement and not to leave a placement, unless there are severe safeguarding concerns, as they would be putting themselves at risk of being found intentionally homeless and not being able to access any more support.

#### **CASE STUDY:**

#### **Joseph's story – A vulnerable care leaver found intentionally homeless**

Joseph\* arrived in the UK as an unaccompanied child. He is now a care leaver and has a physical disability and mental health issues. When he was 18, Joseph lost his placement in supported housing after assaulting a staff member. Joseph told us that he was mistreated by the staff there because he was a refugee.

<sup>20</sup> Section 191 of the Housing Act 1996

<sup>21</sup> APPG for Ending Homelessness (2017) [Homelessness prevention for care leavers, prison leavers and survivors of domestic violence](#)

Upon being evicted, he applied to his local authority as homeless and was provided with interim accommodation whilst his application was being processed. However, housing services then found him to be intentionally homeless, thus putting him at risk of losing his interim accommodation and ineligible for any further support. Thankfully evictions were banned at this point during the Covid-19 pandemic.

It was our housing solicitor's opinion that under the current legislation Joseph did not have grounds to challenge this decision. Instead, Joseph's personal advisor eventually agreed to provide Joseph with accommodation that was suitable to his restricted mobility needs.

*Just for Kids Law*

\*not his real name

It is hard to establish the true scale of the impact of intentionality on homeless care leavers. Official statistics do not account for intentionality in enough detail, as it can happen at any stage of the process. However, one young person told us about her experience of being denied further support after refusing to move to a borough where she did not feel safe:

*"I was told that I had to move from one borough to another, and I had a week to move out and I was mid-college. I refused to move there because of previous traumatic experiences and ended up being homeless. Although I found my own accommodation, they refused to help me – they refused to give me the leaving care grant, no housing benefits, nothing. If moving to that other borough really was the only option they should have provided me with mental health support but they refused that as well."*

In her case, her local authority used this 'intentionality' to withdraw all leaving care support from her, which was illegal.

Intentionality is also being reconsidered as a test for homelessness assistance in other parts of the UK. In Wales, in 2019, the Government brought into force the end of intentional homelessness for young people under 21 and for care leavers aged 21 to 24. Some action has already been taken at the local level in England with, for example, Barnsley council and Greater Manchester Combined Authority deciding not to apply the intentionality criteria to their care leavers.<sup>22</sup> However, care leavers should not be subjected to a postcode lottery on this major barrier to accessing support from housing services.

- ▶ The Government should remove the test of intentional homelessness for all care leavers, up to the age of 25.

## Lack of move-on options

Removing eligibility barriers for care leavers and improving local authorities' practice will ensure that care leavers are not left facing homelessness. But even once a care leaver has successfully navigated the homelessness system and the local authority has accepted a main duty to house them, those young people still risk being left in temporary accommodation for long periods of time as they struggle to move on to either social housing or the private rented

sector. Temporary accommodation can often be overcrowded, unsafe and also put young people at risk of sexual exploitation, involvement in criminal activity, mental and physical abuse and pressure to take drugs or alcohol.<sup>23</sup> We find a lot of care leavers get stuck in or dumped into hostel pathways for years and are told they must prove that they are ready to move on even though many find that a hostel environment exacerbates their mental ill health. Wider reforms are needed

<sup>22</sup> DfE (2018) *National Implementation Adviser for Care Leavers' First Year Report*; DfE (2020) *National Implementation Adviser for Care Leavers' second report: the decade of the care leaver*

<sup>23</sup> Centrepoint (2017) *From Care to Where? Care leavers' access to accommodation*

to ensure all care leavers have access to suitable, affordable and stable accommodation.

### **No access to social housing**

Another common issue we see is young people who were placed out-of-area when they were looked after children but then are unable to access social housing in the area where they live as adults. Once children turn 18, they are not automatically eligible for leaving care support in their local authority of residence, even if they have lived there for several years and have their support networks in that area. In some cases, this means that they do not have priority for social housing even though 'local' care leavers would.

Local authorities retain broad powers to establish which groups will have priority for social housing in their area, within the limits of the Housing Act 1996. As social housing stock is severely limited across England, only those on the highest priority bands can realistically expect to be allocated a property. Statutory guidance indicates that the category in the Housing Act 1996 of people who

need to move to social housing on "welfare" ground encompasses care leavers.

However, this does not translate to all care leavers having priority for social housing in all local authorities. Local authorities' control over their allocation policies, complicated rules around the type of properties care leavers are entitled to and the availability of social housing mean that often care leavers cannot access suitable social housing in their area of choice.

As in Matt's case, care leavers who had been placed out-of-area as children are sometimes offered social housing in their local authority of origin, but this can mean uprooting their lives and leaving their support network behind at an age when they would normally be relying on friends and trusted adults during their transition to adulthood. Losing this support network can result in detrimental consequences for young people, sometimes pushing them into the criminal justice or mental health system, which has both a long-term personal impact and cost to society.

#### CASE STUDY:

### **Matt's story – A care leaver who cannot get social housing in the area he has been living in for the past five years**

Matt\* is a 21-year-old care leaver and a full-time student. Although his local authority of origin borders outer London, he has lived in an inner London borough since arriving in the UK aged 16 as an unaccompanied asylum-seeking child. He has Post Traumatic Stress Disorder and depression from the violence he witnessed in Afghanistan and is currently on a five-year leave to remain visa.

Matt became homeless in autumn 2020 during the Covid-19 pandemic and had to resort to sofa surfing while waiting for the outcome of his homelessness application. He became street homeless just before Christmas. Although he was in touch with his personal advisor about his situation, he was refused help. Eventually his local authority of residence found that it did owe Matt a main housing duty and gave him a bidding number for social housing. However, Matt does not have highest priority for social housing in that inner London borough, despite being a care leaver who has lived there for five years, and because of this he will not be able to get social housing for many years.

After Matt reached out to us, our housing solicitor got in touch with his local authority of origin who paid for Matt to live in emergency accommodation in a different inner London borough. His local authority of origin has now offered Matt a permanent place in their area but he has never lived there and does not wish to leave inner London. The inner London borough where he had lived for five years prior to becoming homeless has so far refused to acknowledge owing any additional duty to Matt.

### **An unaffordable, unstable private rented sector**

Benefits are not currently sufficient to cover the cost of private rent in many, if not all local authorities. This is even truer for care leavers who, as under 25s, are only entitled to a lower rate of benefits. Although the Government has recently exempted care leavers from the Shared Accommodation Rate, the benefit cap still applies which means any benefits they have can only meet very basic needs. Care leavers who are left in temporary accommodation long-term are not able to improve their financial position through work due to the impact of earnings on benefits.

Even where the local authority has offered to cover the cost of rent, the budget given does not match the actual costs of renting in the area and leaves care leavers forced to rent poor quality, unsafe housing.

The lack of available stable, safe and affordable accommodation means many care leavers will remain stuck in a cycle of homelessness and inappropriate housing for years, unless the Government urgently acts to rectify this.

- ▶ The Government should amend legislation to ensure all care leavers have the highest priority for social housing in all local authorities, and especially where they were placed out-of-area as a child.
- ▶ Central and local government must urgently consider further reform and investment to address structural issues in housing availability, support the increase in social housing supply and bring benefits and the minimum wage for care leavers in line with actual living costs.

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## **Recommendations**

1. All local authorities should develop a joint housing protocol for care leavers as recommended by the joint Department for Education (DfE)/Ministry of Housing, Communities and Local Government (MHCLG) guidance published in October 2020.
2. As recommended by the joint DfE/MHCLG guidance, joint housing protocols should set out a clear duty on the personal advisor to support the young person to access safe and suitable accommodation as part of the pathway planning process. Protocols should also mandate that personal advisors are involved and the existing pathway plan considered in the development of a Personal Housing Plan for a care leaver.
3. All local authorities must provide safe and suitable interim accommodation when the applicant is homeless and may have priority need and consider the young person's wishes and feelings in this decision.
4. The Government should amend the Homelessness (Priority Need for Accommodation) (England) Order 2002 to extend priority need to include all care leavers under the age of 25.
5. The Government should amend the Homelessness Code of Guidance to include a duty for local authorities to assess whether a young person aged 18 to 24 presenting as homeless should have been made a looked-after child when under 18 and thus should have care leavers entitlements, including priority need.
6. The Government should remove the test of intentional homelessness for all care leavers, up to the age of 25.
7. The Government should amend legislation to ensure all care leavers have the highest priority for social housing in all local authorities, and especially where they were placed out-of-area as a child.
8. Central and local government must urgently consider further reforms and investments needed to address structural issues in housing availability, support the increase in social housing supply that is suitable for care-experienced young people and bring benefits and the minimum wages for care leavers in line with actual living costs.

## About us

Founded in 2006 **Just for Kids Law (JfKL)** works with, and for, children and young people to hold those with power to account, and to fight for wider reform by providing legal representation and advice, direct advocacy and support, and campaigning to ensure children and young people in the UK have their legal rights and entitlements respected and promoted and their voices heard and valued.

The **Children's Rights Alliance for England (CRAE)** merged into Just for Kids law in 2015 and works with over 100 members to promote children's rights and monitor government implementation of the UN Convention on the Rights of the Child.

**Youth Legal** is an independent charity based in Wandsworth, assisting marginalised and vulnerable young people across the London area. We facilitate young people's access to justice through high quality young person-friendly legal advice, support and education. Our specialist legal advice in Housing, Community Care, Debt and Money Advice and Immigration is focused on fighting for children and young people to be safe and secure, with appropriate housing.

**New Horizon Youth Centre** is a vital support network for young people, 16-24, with nowhere to go in London. Through their day centre, via outreach and remotely they support young people experiencing homelessness in the capital to improve their wellbeing, change their economic circumstances and find somewhere that they can call home.

**Written by:** Eloise Di Gianni and Natalie Williams

### **Just for Kids Law**

Unit 2, Crystal Wharf  
36 Graham Street, London N1 8GJ  
**Telephone:** 020 3174 2279  
**Fax:** 020 7681 1393  
**Email:** [nwilliams@crae.org.uk](mailto:nwilliams@crae.org.uk)  
**Website:** [www.justforkidslaw.org](http://www.justforkidslaw.org)  
**Twitter:** @justforkidslaw