

Annex 4. Out of Area Placements Protocol

Responsibility under section 17 of the Children Act 1989

- 1) By section 17(1) of the Children Act 1989 a children's services authority is under a general duty to safeguard and promote the welfare of children within its area who are in need, and, so far as is consistent with that duty, to promote the upbringing of children by their families, by providing a range and level of services appropriate to those children's needs.
- 2) By section 17(3) any service provided in the exercise of the functions under section 17 may be provided for the family of a particular child in need, or for any member of their family, if it is provided with a view to safeguarding or promoting the child's welfare. By section 17(6) the services provided may include providing accommodation.
- 3) It can be seen that it is contemplated that services under section 17 will be provided by the children's services authority in whose area the child is physically present. That is not limited to the authority in whose area the child lives. A child can be physically present in an area by, for example, attending school there (*R (Stewart) v Wandsworth London Borough Council* [2002] 1 FLR 469 at paragraph 30) but a brief visit to an area will not suffice (*R (AM) v Havering London Borough Council* [2015] PTSR 1242 at paragraph 42).
- 4) Where an authority has carried out an assessment of a child's needs at a time when the child was physically present in its area, it has power to provide services to the child even if the child subsequently moves outside its area (*R (J) v Worcestershire County Council* [2015] PTSR 127 at paragraphs 34 to 36).
- 5) As a result of the above, where a local housing authority has placed a household with one or more dependent children out of its area, the host children's services authority will have responsibility for the children under section 17 of the 1989 Act. The placing authority (or the children's services authority for the area in a two tier area) will also have responsibility for the children if they continue to have a physical presence in its area - for example, because the children continue to go to school in the placing authority's area.
- 6) If the placing authority (or the children's services authority for the area in a two tier area) has previously assessed the needs of the children while they were present in its area, it can continue to provide services to the children even after they have moved out of the area. However, in a case where the children appear unlikely to return to the area within six months, it may only be appropriate to provide such services for a limited period until the host authority is in a position to take over the provision of services.
- 7) Where more than one authority has responsibility for children under section 17, whichever authority is first approached by the family would be obliged to assess the children's needs but the different authorities with responsibility should co-operate to decide which would be the most appropriate authority or authorities to provide any services.