

Understanding Section 20 of the Children's Act 1998

for Professionals

Introduction

Section 20 of the Children's Act 1998 is a pivotal piece of legislation that outlines the duty of local authorities to provide accommodation for children in need in their area. This section is often used in practice by social workers to ensure the welfare and safety of children.

The Right to Family Life

The right to family life is a fundamental principle that underpins all aspects of social work, including the application of Section 20. The European Convention on Human Rights (Article 8) protects the right to respect private and family life, home, and correspondence. This right applies to everyone, including children and their families.

In practice, this means that social workers should always strive to keep children within their families wherever possible and appropriate. Removing a child from their family and accommodating them under Section 20 should only be considered as a last resort when all other options have been exhausted and it is in the child's best interests.

Principles of Section 20

The main principles of Section 20 are:

Voluntary Accommodation:

Section 20 is a voluntary agreement between the local authority and the parents or guardians of the child. The parents retain their parental responsibility and can remove the child from the accommodation at any time.

Child's Welfare Paramount:

The child's welfare is the paramount consideration. The local authority has a duty to safeguard and promote the welfare of the child.

Partnership with Parents:

The local authority should work in partnership with the parents or guardians, taking their views into account when making decisions about the child's accommodation.

Appropriate Accommodation:

The accommodation provided must be appropriate to the child's needs and circumstances.



Section 20 and Application in Practice

In practice, social workers should use Section 20 in the following ways:

- **Assessing the Child's Needs:** Carry out a thorough assessment of the child's needs to determine whether accommodation under Section 20 is necessary and appropriate.
- **Working with Parents:** Engage with the parents or guardians to explain the purpose and implications of Section 20. Obtain their agreement before accommodating the child.
- **Regular Reviews:** Regularly review the child's situation to ensure that the accommodation continues to meet their needs and that it remains in their best interests.
- **Planning for the Future:** Work with the child, parents, and other relevant professionals to plan for the child's future, including the possibility of returning home.

Limitations of Section 20

While Section 20 is a powerful tool, it's important to be aware of its limitations:

- **No Time Limit:** There is no statutory limit on how long a child can be in Section 20 accommodation. However, keeping children in Section 20 arrangements without initiating care proceedings could breach the law and prevent children from having a permanent place to call home.
- **Misuse and Abuse:** There have been instances of misuse and abuse of Section 20, such as using it as a long-term prelude to care proceedings. This misuse has led to criticism and potential breaches of human rights.
- **Lack of Parental Understanding:** Parents may not fully understand the implications of Section 20, leading to potential issues. Social workers must ensure parents are fully informed and their consent is obtained.
- **Inadequate Planning:** Failure to regularly review the child's situation and make necessary adjustments can lead to the child's needs not being met adequately.
- **Voluntary Nature:** Section 20 is a voluntary agreement, and a person with parental responsibility may remove the child at any time. This can potentially disrupt the child's living arrangements, stability and result in them returning to an unsafe environment.

Conclusion

Understanding and correctly applying Section 20 is essential for social workers to ensure the best outcomes for children in need. It is a powerful tool that, when used appropriately, can significantly improve a child's circumstances and future prospects. However, it should always be used with the understanding that every child has the right to family life and that the best place for a child is usually within their own family.

Please note that this is a brief summary and does not cover all aspects of Section 20. For a more comprehensive understanding, please refer to the full text of the Children's Act 1998 and relevant case law. Always seek legal advice if you are unsure about the application of Section 20 in a particular case. Remember, the welfare of the child is always paramount.

