



**Your Family, Your Voice**  
An Alliance Of Families And  
Practitioners Working Together  
To Transform The System



## **YOUR FAMILY, YOUR VOICE**

### **KNOWLEDGE INQUIRY**

#### **Your Family, Your Voice**

Established in 1974, Family Rights Group is the charity that works with parents in England and Wales whose children are in need, at risk or are in the care system and with members of the wider family who are raising children who are unable to remain at home. Your Family, Your Voice is an alliance of families and practitioners that has been developed by Family Rights Group to counter the stigma and negative presumptions about families whose children are subject to, or at risk of, state intervention. The Alliance seeks to influence law, policy, practice, service design and delivery so that our child welfare, child mental health, youth justice and education systems promote effective human functioning and healthy relationships.<sup>1</sup>

Your Family, Your Voice is leading a Knowledge Inquiry to look in detail at one part of our child welfare system. The Inquiry will be examining the powers and duties which exist under section 20 of the Children Act 1989. These powers and duties and the arrangements which they can lead to are sometimes referred to as 'section 20/voluntary arrangements' or 'voluntary accommodation'.

#### **What is section 20 of the Children Act 1989 about?**

The Children Act 1989 is the leading source of child welfare law in England & Wales and explains that children who are cared for within the care system are known as 'looked after' children. Some children are 'looked after' because a court has decided that it is in their best interests for that to happen. Other children become 'looked after' without the court being involved. It is because of the powers and duties that are in section 20 of the Children Act 1989 that children's services (previously called 'social services') can in specific circumstances provide and arrange care for children without the oversight of the court. The power to do this under section 20 is called the 'provision of accommodation for children' and children provided with accommodation in this way become 'looked after' children. In Wales, with effect from April 2016, section 20 Children Act 1989 has been replaced by section 76 Social Services and Wellbeing (Wales) Act 2014 which sets out parallel powers and duties to enable local authorities to bring children into care in Wales under voluntary arrangements.

Children's services can provide accommodation for a child when the person who has been caring for the child is prevented from providing suitable accommodation or care.<sup>2</sup> Children's services can also provide accommodation to safeguard and promote the welfare of a child, even though a parent can provide accommodation.<sup>3</sup> The powers and duties in section 20 enable children's services to make arrangements for children who are abandoned or separated from their parents without needing to ask a court (e.g. an unaccompanied refugee child). These powers and duties also require that, in certain situations, children's services provides accommodation to young people who are homeless.<sup>4</sup>

<sup>1</sup> For more information about Family Rights Group and Your Family, Your Voice please go to [www.frg.org.uk](http://www.frg.org.uk).

<sup>2</sup> Section 20(3) Children Act 1989.

<sup>3</sup> Section 20(4) Children Act 1989.

<sup>4</sup> See R (on the application of G) (FC) (Appellant) v London Borough of Southwark (Respondents) [2009] UKHL 26.

Section 20 perhaps attracts much interest and attention because it can allow children's services to provide accommodation for a child with the agreement of a parent (or other person who has parental rights and responsibilities for the child).<sup>5</sup> Children's services may not provide accommodation for a child if a parent<sup>6</sup> who is able to provide, or arrange for, accommodation for the child objects.<sup>7</sup> Once a child is provided with accommodation and becomes looked after a parent may remove the child at any time.<sup>8</sup> This is because the arrangement is a voluntary one and parental responsibility (PR) is not shared by local authority. Children who have reached the age of 16 years can themselves agree to be accommodated however.

Children who live in section 20 arrangements may be in different types of accommodation and placements. This could be with unrelated foster carers, including foster carers who could go on to adopt the child (this is called 'foster for adoption'); in a residential placement; with a parent; or with a wider family member such as a grandparent or sibling.

### **Why are you doing the inquiry?**

There is a rising number of children in care - 70,440 as at 31 March 2016; 45,440 of these children are looked after under a care order and nearly 19000 are looked after under a voluntary arrangement under section 20. There are record numbers of care proceedings and a series of recent cases before the family courts have shown that there are significant gaps in good practice where section 20 powers are used.<sup>9</sup> These cases highlight that there is not a clear picture of how these powers and arrangements are being used across England & Wales<sup>10</sup> or what challenges children and families face where they are used. There is however no focussed guidance from government to guide practitioners or to support local authorities in using section 20 powers as part of a wider goal of delivering a good service to children and families. Given the rising number of child protection enquiries and the government drive for adoption (including foster for adoption), it is important to understand what role section 20 arrangements now have, and should have, in supporting families and children when families are struggling.

### **What does the inquiry aim to find out?**

- What was the original purpose and intention behind section 20 Children Act 1989?
- Is that original purpose and intent still valid and relevant today?
- How is section 20 presently being used in England & Wales<sup>11</sup>?
- What needs to change and what are the priorities?

### **What does the Inquiry involve?**

The inquiry will be led by Your Family, Your Voice. An Inquiry reference group made up of family members, lawyers, social workers and academics will provide advice, guidance and ideas about the Inquiry.

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<sup>5</sup> This is known as 'Parental Responsibility' (PR) and is all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property.

<sup>6</sup> Or another person who has parental responsibility for the child.

<sup>7</sup> This is set out in s.20(7). Children Act 1989 but note that someone who is caring for the child and who has a Child Arrangements Order, Special Guardianship Order or an Order from the High Court can override such an objection and children's services can continue to provide accommodation with the agreement of that person.

<sup>8</sup> This is set out in s.20(8) CA 1989. The exception detailed at footnote 7 above also applies here.

<sup>9</sup> For example: Coventry City Council v C, B, CA and CH [2012] EWCA Civ 2190 (Fam), Re B (Looked After Child) [2013] EWCA Civ 964, Williams and Another v LB Hackney [2015] EWHC 2629 (QB), N (Children) (Adoption: Jurisdiction) [2015] EWCA Civ 111, Northamptonshire County Council v AS and Others [2015] EWHC 199; London Borough of Hackney v Williams [2017] EWCA Civ 26.

<sup>10</sup> In Wales, with effect from April 2016, section 20 CA 1989 has been replaced by section 76 Social Services and Wellbeing (Wales) Act 2014.

<sup>11</sup> Ibid.

The Inquiry will invite young people, parents, kinship carers, foster carers, social workers, family support workers, lawyers, academics and others to respond to online consultation questionnaires. Focus groups discussions will take place at different times during the Inquiry to explore experiences and ideas in more detail with family members and practitioners.

The context for the Inquiry will be set by contributions from academics and lawyers about the origins and development of section 20 of the Children Act 1989. Data from central government as well as Freedom of Information request data from local authorities in England & Wales will be reviewed.

In April 2017 the Inquiry will bring together young people, families, practitioners, academics and decision-makers at a challenge event to discuss the information and ideas that have come from the consultation process and to help us develop conclusions and recommendations.

The evidence gathered during the inquiry will be used to write a final report that will be published in late spring 2017, as well as articles, presentations and interviews.

### **Key issues for those taking part**

- Taking part in the Inquiry is completely voluntary.
- Anyone wishing to take part in the Knowledge Inquiry by completing a questionnaire or by taking part in a focus group will need to read this briefing note first.
- If you take part in the Inquiry by completing a questionnaire, you will need to read the consent form which appears at the start of the questionnaire.
- If you take part in a focus group discussion you will first need to read a separate consent form and agree to take part on the terms explained.
- A separate, short information sheet about taking part in a focus group discussion is available and explains what is involved.
- We will write about/discuss the material gathered during the Inquiry in a final Inquiry report, in articles, presentations and interviews. Names and places will be changed so that no one knows the people who have taken part.
- If an organisation submits evidence, it is possible that it will choose to have their participation acknowledged in our report or other publications; this will be discussed with them.
- We will not tell anyone else the information that is shared during the Inquiry unless we think someone may be at risk of harm and this is not yet known to Children's Services or the police.
- All material gathered from participants will be securely locked away during the Inquiry and then securely destroyed following the conclusion of the Inquiry.
- We hope taking part will be enjoyable and interesting. If at any point you experience upset or distress whilst participating then you can contact the Inquiry lead so that we can work out how to best get you any help or support you may need.

### **Further information**

For any further information, please contact Caroline Lynch, [knowledgeinquiry@frg.org.uk](mailto:knowledgeinquiry@frg.org.uk) or go to the Family Rights Group website – [www.frg.org.uk](http://www.frg.org.uk).

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