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| **Subject** | **Section 20 (CA, 1989)** | | |
| **Date** | May 2020 | **Author** | Kristen Faulkner |
| **Purpose** | To ensure that all social workers and their managers consider the legal framework and relevant case law to provide accommodation under Section 20 (s20). | | |
| **Key Points** | 1. S20 refers to duty of the LA in providing accommodation to children, when a child may be accommodated and who can object to this 2. When considering accommodating a child under s20, social workers should­—    1. Determine who has PR in order to consent. Everyone with PR must be consulted. If absent parent(s) cannot be contacted- the efforts made to contact them must be clearly recorded    2. Assess the parents’ capacity to give consent- consent should never be assumed. Consider cognitive and mental health difficulties. If at any point you have any doubt about the persons capacity signing s20, DO NOT continue to seek this. SW should seek management/ legal advice. Remember that capacity due to MH can fluctuate so keep under review    3. Assess validity of consent and ensure consent is fully informed. It is a misuse of Section 20 to advise parents that ‘they need to sign s20 agreement or we will go to court’ 3. Social workers must support parents **right to withdraw consent at any time, without notice -** parents right to withdraw consent should be included in the wording and clearly explained to them 4. SWs must ensure the decision to accommodate a child is necessary and proportionate. Essentially, if we are placing a child into foster care under Section 20, we need to be clear that in doing so we are either acting in the expressed wishes of the parent (they are requesting this as support, rather than we are requesting this due to concern), or we need to be clear that the concerns are such that an order could be granted by the court 5. SWs must be mindful of proportionate interim family arrangements which do not amount to s20. 6. If the circumstances were such that a written agreement was necessary restricting the parents care of the children, this is Section 20. Management advice should always be sought when considering family arrangement/s20 7. S20 does NOT allow the LA to make decisions for a child. The LA do not share PR 8. S20 agreements must be reviewed at LGW/review LPMs to ensure no delay, especially for longer- term care plans. Where the decision to provide care under s20 has been agreed outside of LGW, the case should be presented within a maximum of 4 weeks 9. Although it is not a breach of section 20 to keep a child in accommodation for a long period without bringing care proceedings, it may well be a breach of other duties including a breach of the child’s or the parents Human Rights under article 8 of the ECHR 10. Only in exceptional cases is it likely that the care plan would remain s20 for more than a 3 month period – such cases are likely to include a child who wishes to remain in care who is nearing the age of 16 and where the parent is working well with us, or where a child has a level of disability that requires specialist 24 hour care that cannot be effected at home, and the parent remains very involved in care planning 11. When a child is accommodated, two forms must be signed: 1) The parental Section 20 Agreement and 2) The Certification by the social worker upon obtaining consent 12. The Section 20 Agreement and Social Work Certification should be re-signed at the second LAC review and thereafter on an annual basis as part of the LAC Review process 13. S20 makes special provision for children who have reached 16. The Local Authority may provide accommodation for a young person aged 16 or over at their own request, and under their own signed consent, even where a parent objects. The parent cannot remove a young person against their will 14. **Please note: Any decision to accommodate a child must be agreed by the HOS.** | | |
| **Resources** | Medway Children’s Service’s Practice Guidance re Section 20: <https://medwaychildcare.proceduresonline.com/files/section_20_practice_guid.pdf?zoom_highlight=section+20#search=%22section%2020%22> | | |