


IMPORTANT

- The information we provide on our rights4children website is for general guidance. It is not legal advice.
- If you need legal advice, please contact an independent advocate or a solicitor.
- Article 39 tries its best to make sure information is accurate and up-to-date. However, we cannot guarantee this. We'd appreciate you letting us know if you notice any errors or out-of-date information: info@article39.org.uk

Aged 16 or 17 and without a home

- ✦ It can be very lonely, stressful and frightening having to leave home at 16 or 17. Help is available. The law in England is very clear that 16 and 17 year-olds have the right to help and protection – both while they are still legally children, and into their adult lives.
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- ✦ It is quite common for there to be arguments at home during the teenage years. Older children often want more freedoms and to be able to question and challenge. Parents can find it difficult to adjust to these changes. How parents show love and care to a 14 year-old compared to a 4 year-old is obviously very different! Communication between parents and children during the teenage years – *especially listening to one another* – is very important. Problems can disappear or become more manageable over time. Advice and support from family and friends, and sometimes from teachers or social workers, can be very helpful.
 - ✦ Life can be extremely difficult for some 16 and 17 year-olds. They may be being abused and mistreated by a parent, a stepparent or someone else within their family ([information on your right to be and feel safe can be found here](#)). There may be people outside the family who are harming and threatening them. They might not feel they are listened to or treated fairly within their family. Their family may be struggling with serious money and housing worries. There might be a lot of arguments and stress at home. Then there are 16 and 17 year-olds who come to England from another country without a parent or other adult, meaning they have no family here to take care of them.
 - ✦ Sometimes difficulties within a family become too much, and a 16 or 17 year-old is asked or told to leave. Or they might feel they have no option but to leave because they can't cope anymore at home.

Children aged 16 and 17 who are homeless, or threatened with homelessness

- ✦ Between 1st April 2022 and 31st March 2023, **6,469** 16 and 17 year-olds asked for help from their local authority, or someone else asked for help for them, because they were homeless or they were threatened with homelessness.¹
- ✦ The law states a person is homeless if they don't have a place to live in. A person may not have a place to live in because they are at risk of violence or abuse. If a person is sleeping on a friend's sofa or on the floor of a friend's house, they are still legally homeless.²
- ✦ The law states a person is threatened with homelessness if they are likely to be homeless within 56 days, or they have been given official notice to leave their property within the next 56 days.³

16 and 17 year-olds are still children

- ✦ English law defines a child as a person up to the age of 18.⁴ So, if you are aged 16 or 17, you are still legally a child.
- ✦ Many teenagers don't like being called a child because it can feel patronising, and that they are not being respected or taken seriously. We use the term 'child' because of the very important legal rights and protections that all children – up to and including those aged 17 – have in England. We do not mean to show any disrespect.
- ✦ Some 16 and 17 year-olds may feel they are old enough to look after themselves. This can be understandable, especially if they have had a lot of responsibilities for a long time.
- ✦ **But it's important to remember that the vast majority of 16 and 17 year-olds rely upon parents or other adults to care for them, show them love and attention, spend time with them, actively support their education, and guide and help them through their teenage years and into their adult lives.**
- ✦ Coming to the end of childhood and starting the beginning of adulthood is a critical time of life. If children's needs are not met during this period, this can cause them a lot of unhappiness and suffering; it can also make their adult lives difficult. The law states that everyone must be in education or training until age 18, and other protections go up to this age too. For example, it is against the law for people under the age of 18 to buy cigarettes, alcohol or fireworks, or to get married or enter a civil partnership. Our child welfare and child protection laws also go up to age 18.
- ✦ Some children can feel pressured to take care of themselves. Wanting to be looked after and cared for is a natural feeling, though. It is becoming more common for people to leave home at an older age. Official statistics show that half (50%) of 23 year-olds were living with their parents in 2023. More than a quarter (28%) of 20 to 34 year-olds were still living with their parents.⁵

Right to help from local authority children's services

- ✦ Every area in England has an organisation that is in charge of making sure children are safe, protected and well looked after. These organisations are called local authorities.⁶
- ✦ Any child aged 16 or 17 who is without a home has the legal right to help and protection from their local authority children's services.⁷
- ✦ Every child in this situation should be offered an independent advocate to help them understand their rights, and to communicate their views, wishes and feelings.⁸
- ✦ If you are not offered an advocate, you can ask for one at any point. If you earlier refused help from an advocate, but have changed your mind - that's OK. You have the right to help from an advocate whenever you need one. Just ask the social worker or any other worker who is looking at what you need. If there is any delay in this happening, or you are refused, please see the 'Getting help' section of our rights4children website.
- ✦ Advocates make sure children know their rights. They are completely separate from local authority children's services, and give whatever help is needed to make sure children's rights are protected.
- ✦ Advocates can attend meetings with children, they can help children write emails or make phone calls, and they can help children find a solicitor when this is necessary (when a local authority doesn't seem to be following the law, for example).
- ✦ If a 16 or 17 year-old goes to a housing office first, staff there must contact children's services. This is because local authority children's services have the main duty to protect and look after children in need, including those who are aged 16 or 17. Children's services and housing must work together, so that 16 and 17 year-olds get the help they need, and are entitled to, and to make sure they don't have to keep repeating information to different people.
- ✦ Children's services are focused on making sure children are safe and get everything they need to have a good life.
- ✦ Help from children's services will, firstly, try and sort things out at home – but only if this can be done safely.
- ✦ If things cannot be sorted at home at the present time, then the local authority must decide whether to look after the child.
- ✦ When a child aged 16 or 17 becomes looked after, their local authority will keep trying to help them return to live with their family if this is possible. A local authority would only stop, or try to stop, a child seeing their family or others close to them if there were immediate and serious safety concerns, and then permission would have to be obtained from a court.

- ✦ No child should ever be pressured to return home if this is not safe for them.
- ✦ When local authorities look at a child's safety, they must consider all aspects of the child's life and feelings – their physical safety as well as how they feel inside, and how this affects their mental health.
- ✦ When they are assessing a child's needs, local authorities must find out the child's wishes and feelings. They must also give the child's wishes and feelings due consideration, taking into account their age and understanding.⁹ In other words, a child's views and feelings must always be given very careful attention. Then the more understanding a child has, the more emphasis and weight should be given to their views.
- ✦ A teenager who feels so unhappy at home that they say they would rather sleep in a park or on the floor or sofa at a friend's house must be taken very seriously. Local authorities are under a duty to protect children – including those aged 16 and 17 – from significant harm.¹⁰ They also have duties around protecting a child's human right to be physically and psychologically safe.¹¹ Local authorities are not allowed to knowingly put a child of any age – including those aged 16 or 17 – into a situation where they will suffer harm.

I've been told I'm being assessed. What does this mean?

- ✦ When someone aged 16 or 17 is homeless, or threatened with homelessness, then two parts of a local authority – children's services and housing – can look together into the child's needs and family situation. This is called a joint assessment. The advantage for a child of having a joint assessment is that they don't have to speak to lots of different people. Government guidance encourages joint assessments.¹²
- ✦ **The children's services part of a local authority has legal duties around the care and protection of children. If a joint assessment is being undertaken, then children's services must take the lead / be in charge.¹³ If a child needs somewhere to live straightaway, children's services must sort this.¹⁴**
- ✦ If a joint assessment is being carried out about you, and your life, the law requires the local authority to find out and give 'due consideration' to your wishes and feelings when deciding what help you may need.¹⁵ This means the social worker making an assessment of your needs must listen very carefully to you, and do their best to understand what life is like for you. They have to take your wishes and feelings seriously, in line with your age and understanding - so the more you understand, the more influence your wishes and feelings will have over the help you receive.
- ✦ The joint assessment should be finished within a maximum of 45 working days (weekends are not counted) – so 9 weeks in total.¹⁶ That's a very long time for a child who is in need of care and protection now. The law is clear that children's services must look after any child who is in need in their area and is without a home and parental care – see the section below on 'Do I have to be looked after?'. This should not be delayed while a joint assessment is happening.

- ✦ If the law is properly followed, it will be extremely rare for a social worker and others carrying out a joint assessment to decide that the only thing a 16 or 17 year-old needs is somewhere to live (housing). This is because nearly all 16 and 17 year-olds need somewhere safe and comfortable to live AND care, protection, guidance, help with education and with staying healthy, as well as preparing for their future as an adult.¹⁷
- ✦ If a social worker tells you that the result of your joint assessment is that all you need is somewhere to live (housing), and you disagree with this, you can make what's called a Children Act 1989 complaint with help from an advocate. You may also need urgent help from a lawyer – to make the local authority follow the law. See the 'Getting help' section below.

What does being looked after mean?

- ✦ Being looked after by a local authority means that the local authority is responsible for the child's welfare.¹⁸ It must act like a loving parent, and do all it can to make sure the child's needs are met – relating to their health, education, relationships and friendships, hobbies and interests, and planning for their future.
- ✦ Every looked after child has their own social worker, who has special responsibilities to make sure they are well and happy. They also have an independent reviewing officer whose job is to check that the local authority is doing everything it should for them, and that good plans are being made for the child's future.
- ✦ Importantly, when a child is looked after they must be listened to, and their wishes and feelings taken seriously.¹⁹ They have the right to an independent advocate whenever they want help to express their views, wishes and feelings.²⁰
- ✦ The law states local authorities must always think about the following seven principles whenever they are making decisions, or doing things, which affect children who are looked after, and care leavers aged 25 or under. These seven principles are:
 - The need to act in the best interests, and promote the physical and mental health and well-being, of children and young people.
 - The need to encourage children and young people to express their views, wishes and feelings.
 - The need to take into account the views, wishes and feelings of children and young people.
 - The need to help children and young people benefit from services.
 - The need to have high aspirations and to want the best for children and young people.
 - The need for children and young people to be safe, and to have stability in their home lives, relationships and education or work.
 - The need to prepare children and young people for adulthood and independent living.²¹
- ✦ As for where a looked after child lives, this has to be carefully decided in line with the child's individual needs and their wishes and feelings.

- ✦ The law requires that, first, the local authority must check to see if it is possible for the child to live with a parent or another person who has parental responsibility (or if a family court has been involved, there may be someone who the child used to live with). If that's not possible, the local authority must work down this list²²:
 - Social workers must see if it's possible for the child to live with someone they are already connected to such as a family member (a grandparent, auntie or uncle or older cousin, for example) or someone from their friendship circle. If suitable, this person (or people) would then become the child's foster carer. They would receive an allowance from the local authority to cover the things the child needs – all the ordinary, day-to-day things that children need and then things like clothes, birthday and other celebrations, and holidays. When potential foster carers are connected to the child, the law allows local authorities to temporarily approve them²³ – to prevent delay in the child moving to live with them.
 - Or the child could live with a foster carer who is not already known to them. This carer would receive an allowance from the local authority just like in the above situation.
 - Or the child could live in a children's home. The average age of children who live in children's homes is 14-15 years, and most children's homes look like ordinary family houses. Every child has their own bedroom. They are not the big orphanages like you see in old films or children's story books!
 - Or the child could, if they are aged 16 or 17, live in what's called supported accommodation. This might be a flat, a bedsit, a room in a shared house or a larger building. Supported accommodation is not suitable for most 16 and 17 year-olds who are looked after by local authorities because no care is provided, just support (and this can be very limited).
 - When working out what would be best for a child, the local authority must do all it can to ensure that the child lives near their (family) home, that there is no disruption to their education or training, and that they live within their local authority area. If the child is disabled, where they live must meet their needs as a disabled child.²⁴ Having mental health difficulties can mean the child is disabled. **The important thing to remember is that where a child lives should be the best place for them.**
- ✦ When a child is looked after, the local authority has to be thinking ahead as well as making sure their needs are met today.
- ✦ A child can stay being looked after until they are 18. If they live with foster carers, this arrangement can continue until they are 21.
- ✦ A person who was looked after for 13 weeks or more after they turned 14 and beyond their 16th birthday has rights to lots of support into their mid-twenties.²⁵ This includes having a personal adviser, financial help for university (including somewhere to stay during holidays), receiving a setting up home allowance (the minimum amount is £3,000) when they move into their first home of their own, and their council must treat them as having priority housing need.

- ✦ Most children who are looked after are the subject of a care order. This means a family court has given their local authority what's called parental responsibility – duties that parents have towards their children. Care orders last until a child is aged 18, unless a court is asked, and agrees, to end the order earlier. A family court cannot make a care order for a child who has reached the age of 17.²⁶
- ✦ Other children are looked after by agreement between their parents and a local authority. No court is involved in this situation, and the child can return home whenever their parents say they want this to happen (though a local authority has powers to protect the child from harm if necessary). This is often referred to as 'section 20' because this is the part of the Children Act 1989 concerned with children being looked after on a voluntary basis.
- ✦ Children aged 16 and 17 can ask themselves to be looked after by a local authority.²⁷ Parental permission is not required. Children this age can also decide not to be looked after under section 20, though they must fully understand the implications of this – see below.

Do I have to be looked after?

- ✦ The law states that local authorities **must look after a child in need** in their area (including those aged 16 and 17) when it appears:
 - There is no-one who has parental responsibility for them, **or**
 - They have been lost or abandoned, **or**
 - The person who has been caring for them can no longer provide them with suitable accommodation or care (this can be for any reason). It doesn't matter whether this inability to provide accommodation or care is temporary or permanent.²⁸
- ✦ In addition, local authority children's services **must look after a child in need** in their area who is aged 16 and 17 and whose welfare the local authority considers is likely to be seriously prejudiced if they do not provide them with accommodation.²⁹
- ✦ Also, local authority children's services **may look after any child** within their area if they think this would safeguard or promote the child's welfare.³⁰
- ✦ You will have noticed that the first two duties written in green above relate to **children in need**. This has a specific legal meaning. A child is in need if:
 - They are unlikely to have a reasonable standard of physical or mental health or physical, intellectual, emotional, social or behavioural development without services from a local authority, **or**
 - Their health or development is likely to be damaged, or further damaged, without services from a local authority, **or**
 - They are disabled.³¹

What if I refuse to be looked after?

- ✦ If you tell your local authority children's services you do not want to be looked after, **it must be satisfied of the following before it accepts your refusal:**
 - That you are not at risk of harm, **and**
 - You are able to understand your situation and to make this important decision, **and**
 - It has given you **full information** about what your rights and protections would be as a looked after child, and as a care leaver, **and**
 - You have been offered help from an independent advocate so you can carefully consider your options.³²

- ✦ **IMPORTANT:** Many local authorities ask children aged 16 and 17 to sign a form to confirm they have refused to be looked after. **If you have not received full information about your rights and help from an advocate to carefully go through your options, we strongly suggest you **do not** sign this form until you have an advocate and the correct process has been followed.**

- ✦ If you meet the definition of a child in need, and you refuse to be looked after, your local authority should pay for somewhere for you to live.³³ But you won't be a looked after child, so you won't get all of the protections that go with that. And, in the future, you won't have the rights and protections that care leavers have – such as help with setting up your first home, financial and other support if you go to university, and priority housing need with the council.

- ✦ **IMPORTANT:** if you refuse to be looked after, and then later change your mind, your local authority must look after you if you still fall into the circumstances in the green writing above.

- ✦ It will be extremely rare for local authorities to decide that a 16 or 17 year-old without a home or parental backup is not a child in need. In such a rare situation, the council has duties to provide you with accommodation under housing law (rather than through child welfare law).³⁴ **Please remember: any decision made about you - by your local authority children's services or housing - that you disagree with can be challenged. An independent advocate can help you to challenge decisions you are not happy with.**

- ✦ Whether the local authority children's services or housing arrange somewhere for you to live, the government says that the following types of accommodation are not considered suitable for any 16 and 17 year-olds:
 - Bed and breakfast accommodation, including hotels.
 - Nightly rental places where there are shared facilities (like kitchens and bathrooms).
 - Night shelters where homeless people of all ages sleep.³⁵

Getting help

- ✦ If you need help from an advocate, [you can find the contact details on this part of our website](#). It says these are advocacy services for children and young people in care and leaving care, but they should also be able to help 16 and 17 year-olds without a home.
- ✦ You can also contact our [children's rights advice service here](#).

I'm an adult, and should have been looked after as a child

- ✦ If you asked for help from local authority children's services or housing when you were aged 16 and 17 and without a home, and you weren't looked after, you may be able to challenge that now.
- ✦ Part of putting things right from the past can be to get you the rights that you would have had as a care leaver, had the local authority correctly followed the law and looked after you.
- ✦ Every person's situation is unique to them, so seeking help from an advocate or a solicitor is likely to be necessary.
- ✦ You can contact our [children's rights advice service here](#), and we will try and help you get help from an advocate or solicitor.

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Legal and other references

¹ Children's Commissioner for England (2023) Homeless 16- and 17-year-olds in need of care.

² Sections 175-177 Housing Act 1996.

³ Section 175(4)-(5) Housing Act 1996.

⁴ Section 105(1) Children Act 1989.

⁵ Office for National Statistics (May 2024) Young adults living with their parents.

⁶ There are 152 local authorities in England which have responsibilities for child welfare and child protection.

⁷ The right to be provided accommodation/looked after by a local authority is in sections 17 and 20 of the Children Act 1989. In 2009, judges in the House of Lords (this was then the UK's highest court) made it very clear that when a child in need is in a local authority's area, and the child's situation falls into section 20(1) or section 20(3) Children Act 1989 – see boxed text below – then the local authority must provide accommodation/look after the child. This extremely important legal case is often referred to as the 'Southwark judgment' because the local authority that was taken to court was the London Borough of Southwark. The case concerned a 17 year-old boy who had nowhere to live and had been staying with friends and 'sofa surfing'. His local authority (the London Borough of Southwark) wrongly decided that he didn't need to be looked after under section 20 of the Children Act 1989; it wrongly said he only needed accommodation and help with his education. The following year, in 2010, the government issued guidance that must be followed by local authorities (unless they have exceptional reasons not to). This guidance was updated in 2018. We quote two very important paragraphs (3.12 and 3.13) from it in the box below.

Section 17(10) Children Act 1989

... a child shall be taken to be in need if—

- (a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a local authority under this Part;
 - (b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or
 - (c) he is disabled,
- and “family”, in relation to such a child, includes any person who has parental responsibility for the child and any other person with whom he has been living.

Section 17(11) Children Act 1989

... a child is disabled if he is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed; and ...

- “development” means physical, intellectual, emotional, social or behavioural development; and
- “health” means physical or mental health.

Section 20(1) Children Act 1989

(1) Every local authority shall provide accommodation for any child in need within their area who appears to them to require accommodation as a result of—

- (a) there being no person who has parental responsibility for him;
- (b) his being lost or having been abandoned; or
- (c) the person who has been caring for him being prevented (whether or not permanently, and for whatever reason) from providing him with suitable accommodation or care.

Section 20(3) Children Act 1989

Every local authority shall provide accommodation for any child in need within their area who has reached the age of sixteen and whose welfare the authority consider is likely to be seriously prejudiced if they do not provide him with accommodation.

Statutory guidance: **Prevention of homelessness and provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation**

Paragraph 3.12

Where a young person in need requires accommodation as a result of **one of the factors** set out in section 20(1) (a) to (c) or section 20(3) then that young person must be provided with accommodation.

Paragraph 3.13

There are only two circumstances in which a local authority might find that a homeless young person should not be accommodated under Section 20, and may instead be owed duties under Housing Act 1996. These are where the young person is:

- a. not a child in need;
- b. a 16 or 17 year old child in need who, **having been properly and fully advised of the implications** and having the capacity to reach a decision, has decided that they do not want to be accommodated under section 20.

⁸ Ministry of Housing, Communities and Local Government and Department for Education (2018) Prevention of homelessness and provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation. Guidance to children’s services authorities and local housing authorities about their duties under Part 3 of the Children Act 1989 and Part 7 of the Housing Act 1996 to secure or provide accommodation for homeless 16 and 17 year old young people. Paragraphs 3.46, 3.47 and 3.63.

⁹ Section 17(4A) Children Act 1989.

¹⁰ Section 47 Children Act 1989.

¹¹ Section 6 Human Rights Act 1998; article 8, European Convention on Human Rights.

¹² Ministry of Housing, Communities and Local Government and Department for Education (2018) Prevention of homelessness and provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation. Guidance to children’s services authorities and local housing authorities about their duties under Part 3 of the Children Act 1989 and Part 7 of the Housing Act 1996 to secure or provide accommodation for homeless 16 and 17 year old young people. Paragraph 3.19.

¹³ Ministry of Housing, Communities and Local Government and Department for Education (2018) Prevention of homelessness and provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation. Guidance to children’s services authorities and local housing authorities about their duties under Part 3 of the Children Act 1989 and Part 7 of the Housing Act 1996 to secure or provide accommodation for homeless 16 and 17 year old young people. Paragraph 3.19.

¹⁴ Sections 17 and 20 Children Act 1989.

Ministry of Housing, Communities and Local Government and Department for Education (2018) Prevention of homelessness and provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation. Guidance to children’s services authorities and local housing authorities about their duties under Part 3 of the Children Act 1989 and Part 7 of the Housing Act 1996 to secure or provide accommodation for homeless 16 and 17 year old young people. Paragraph 3.23.

¹⁵ Section 17(4A) Children Act 1989.

¹⁶ Ministry of Housing, Communities and Local Government and Department for Education (2018) Prevention of homelessness and provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation. Guidance to children's services authorities and local housing authorities about their duties under Part 3 of the Children Act 1989 and Part 7 of the Housing Act 1996 to secure or provide accommodation for homeless 16 and 17 year old young people. Paragraph 3.33.

HM Government (2023) Working together to safeguard children. A guide to multi-agency working to help, protect and promote the welfare of children. See flowchart on page 103.

¹⁷ HM Government (2023) Working together to safeguard children. A guide to multi-agency working to help, protect and promote the welfare of children. See assessment framework pages 56-57 and paragraphs 161-186.

¹⁸ Section 22(3)(a) Children Act 1989 requires local authorities to safeguard and promote the welfare of looked after children.

¹⁹ Section 22(4)-(5) Children Act 1989.

²⁰ Section 26A Children Act 1989.

²¹ Section 1 Children and Social Work Act 2017.

²² Section 22C Children Act 1989.

²³ Regulation 24 The Care Planning, Placement and Case Review (England) Regulations 2010.

²⁴ Section 22C(7)-(9) Children Act 1989.

²⁵ If they are aged 16 or 17, they are called a 'relevant child'. If they are an adult – aged 18 and over – they are called a 'former relevant child'.

²⁶ Section 31(3) Children Act 1989.

²⁷ Section 20(11) Children Act 1989.

²⁸ Section 20(1) Children Act 1989.

²⁹ Section 20(3) Children Act 1989.

³⁰ Section 20(4) Children Act 1989.

³¹ Section 17(10)-(11) Children Act 1989.

³² Ministry of Housing, Communities and Local Government and Department for Education (2018) Prevention of homelessness and provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation. Guidance to children's services authorities and local housing authorities about their duties under Part 3 of the Children Act 1989 and Part 7 of the Housing Act 1996 to secure or provide accommodation for homeless 16 and 17 year old young people. Paragraphs 3.13, 3.42, 3.44, 3.46, 3.47, 3.48, 3.49 and 3.61.

³³ This will be provided under section 17 Children Act 1989.

³⁴ Part 7 Housing Act 1996; Ministry of Housing, Communities and Local Government (2018, updated in 2024) Homelessness code of guidance for local authorities. Chapter 6: Homeless or threatened with homelessness.

³⁵ Ministry of Housing, Communities and Local Government and Department for Education (2018) Prevention of homelessness and provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation. Guidance to children's services authorities and local housing authorities about their duties under Part 3 of the Children Act 1989 and Part 7 of the Housing Act 1996 to secure or provide accommodation for homeless 16 and 17 year old young people. Paragraphs 5.10 and 5.12.