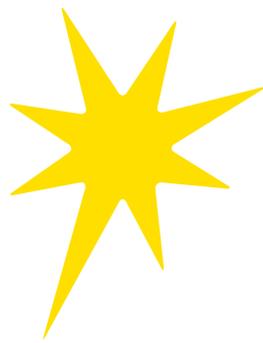




# Social Care in England

A Guide for Parents



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# Introduction

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This guide has been prepared for parents of disabled children in England who want to know how to get help for their child's social care needs. It principally deals with the responsibilities of local authorities to provide social care for disabled children, as well as support for the parents/carers of those children. It has been updated to reflect recent developments in the law, especially the changes made by the [Children and Families Act 2014](#).

Disabled children are treated by the law as being children "in need". This means that local authorities have a duty to assess the care needs of disabled children, and any failure to carry out such an assessment is unlawful. Moreover, once such an assessment has been carried out, local authorities have a duty to provide the services that are necessary to meet the care needs of the disabled child concerned. Again, a failure to provide such services is unlawful. Whilst that is what **should** happen, the reality may be different, and this guide is intended to help parents of disabled children to understand their legal rights and entitlements. This guide, however, is not intended to be legal advice, and should not be relied on as such. Where particular issues arise, parents should always take specific, independent legal advice.

Against that general background, this guide covers the following areas:

1. **The basics.** An overview of the key responsibilities of local authorities to provide social care for disabled children, including some of the "general principles" which govern local authorities' decision-making processes in this area.
2. **When might my child be entitled to additional services?** This section explains the circumstances in which the law will consider a child to be disabled, or otherwise "in need" of additional social care services from his or her responsible local authority.
3. **The assessment process.** This section deals, in particular, with the circumstances in which local authorities have a duty to assess the social care needs of disabled children, as well as the needs of the parents who care for such children. It explains the form which such assessments will take, including their timescale. It also addresses a controversial issue which often arises in practice, namely the use of "eligibility criteria" by local authorities to determine whether care should be provided.
4. **What can local authorities do for us?** A detailed guide to the social care services which local authorities can provide, the circumstances in which they are available and whether local authorities may charge for those services. It also provides a detailed explanation of "short breaks", a particularly important service that local authorities can provide to give respite to those caring for disabled children.
5. **Direct payments and personal budgets.** This section provides details about how parents/carers can arrange care services for disabled children themselves, by asking to be paid directly by their local authority. In addition, rather than making a direct payment, local authorities can arrange a "personal budget", which typically involves an account being held by the local authority, but managed in accordance with the wishes of the disabled child's parent.
6. **Care plans.** This section provides information on the way in which a disabled child's care needs should be recorded by a local authority. This is an area which has changed significantly in light of recent reforms, which have introduced [Education, Health and Care \(EHC\) plans](#) in England. EHC plans replace the former Statements of Special Educational Needs, and require local authorities to formulate a "joined up" approach to meeting

the varied needs – including care needs—of disabled children.

7. **The Equality Act 2010 and social care services.** This section explains how the Act, which protects disabled people from discrimination, will be relevant to families when receiving (or seeking) social care services.
8. **Complaints.** This section provides an outline of the options available to parents who

are unhappy with any aspect of their local authority's social care provision.

9. **Glossary.** This section contains definitions of certain key legal terms used in the social care context, which are highlighted in blue throughout this guide.
10. **Resources.** This section provides some helpful resources for parents who are interested in finding out more detail about the law in this area.

## 1. The Basics

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### 1.1 When might my child have a right to additional social care support?

If your child has a disability, then local authorities have a duty to **assess** his or her needs, including social care needs. Disability, in this context, is defined in the [Children Act 1989](#), and includes being blind, deaf or dumb, having any kind of mental disorder, or being "substantially and permanently handicapped by illness, injury or congenital deformity". It is therefore a broad definition, potentially encompassing a wide range of conditions.

### 1.2 What is the legal basis for the "duty to assess"?

A local authority's duty to assess a disabled child's social care needs arises because disabled children **automatically** meet the definition of a "child in need" under the [Children Act 1989](#) (all children "in need" – disabled or otherwise – must have their needs assessed by the local authority which is responsible for them). In the case of disabled children, this assessment will entail identifying the services and support that are required to meet the disabled child's needs. More information is given below on both the duty of assessment and the services that may be provided as the result of such an assessment.

### 1.3 General principles

The law governing the responsibilities of local authorities in the field of social care is complex, and can be confusing. Where specific issues arise, you may need to obtain specialist advice. Details of organisations that work in this area and which can provide more detailed information and advice are set out in the [Resources section on page 35](#). However, you might find it helpful to keep in mind the following general points:

- You have a right to ask for assessments of your child's needs to be carried out, to be involved in the assessment process and to be informed (in writing) of the local authority's decision on what (if any) services and support should be provided.
- Importantly, parents of disabled children **also** have an independent right to an assessment of their own needs for support (a [parent carer's needs assessment](#)). A local authority has a duty to assess whether it is appropriate for the parent carer to provide (or continue to provide) care for his or her disabled child, in light of the parent's needs and wishes.
- The views of both parents of disabled children, and of disabled children themselves, are of central importance to any decisions to be made about the care and support which should be provided by local authorities. This is emphasised in the [Children and Families Act 2014](#) (section 19), in the specific context

of children with special educational needs, but also applies generally in the context of social care provision for disabled children. Difficult issues may arise where disabled children nonetheless have the capacity to make decisions in their own right. Generally speaking, the law assumes that children under 16 are not able to make decisions for themselves, in which case decisions will be taken on their behalf by individuals with "parental responsibility". However, this is not necessarily straightforward, since the law also allows children who have sufficient understanding of the implications of a particular decision (e.g. to receive medical treatment) to take decisions for themselves. Moreover, there may be situations in which disabled children wish to have access to support from a local authority on a confidential basis, or are unwilling for their parents to disclose information to a local authority without their consent. The legal and practical issues which arise in relation to capacity and confidentiality are far from straightforward. However, certain key aspects of the law in this area are explained in more detail in our parent guide on [Decision-making, Confidentiality and Sharing information](#).

- More generally, since local authorities are **public bodies**, the law places them under a number of **general** duties, including:
  - ◆ A duty to act reasonably and fairly, which involves (among other things) giving logical and appropriately detailed reasons for their decisions, acting without unnecessary delay, acting in accordance with any published policies and honouring any promises or commitments they may have made unless there is good reason to depart from doing so.
  - ◆ A duty to comply with the law, including both specific legislation in the field of social care, and more general pieces of legislation such as the Human Rights Act 1998.

- ◆ Importantly, the law to which local authorities are subject also includes the Equality Act 2010 (see page 30). This is highly relevant in the context of disabled children, since disability is a "protected characteristic" under the Equality Act, meaning that local authorities are not entitled to discriminate between disabled and non-disabled children, for example in the provision of services. Moreover, in relation to disabled children specifically, local authorities are required to make "reasonable adjustments" in cases where disabled children would otherwise be placed at a substantial disadvantage in accessing public facilities or services.
- Further general principles governing the approach which should be taken by local authorities are set out in the National Service Framework (NSF) for Children, Young People and Maternity Services, which was published by the Department for Health in 2004. This sets out 11 "standards" for "promoting the health and well-being of children and young people; and for providing high quality services that meet their needs". While these standards are markers of good practice rather than formal legal requirements, they provide a useful indication of what is expected of local authorities, and (since they have been issued by central government) they must be taken into account by local authorities when making decisions or developing policies concerning children. Particular "standards" that will be relevant to parents of disabled children are standards 6 (concerning children and young people who are ill), 7 (concerning children and young people in hospital), 8 (disabled children and young people and those with complex needs) and 9 (concerning children and young people with mental health needs). [The Resources section on page 35](#) gives further information.

## 1.4 Social care and EHC plans

In some (though by no means all) cases, disabled children will **also** have special educational needs. The [Children and Families Act 2014](#) introduced a new system in England for the assessment of the education, health and care needs of children with special educational needs (defined as a “learning difficulty or disability which calls for special educational provision to be made for him or her”). Where this is the case, the responsible local authority must carry out an “[Education, Health and Care \(EHC\) needs assessment](#)” of the child’s needs, and set out what services are required to meet those needs in an “[EHC plan](#)”. The new law requires EHC plans to set out the social care provision which must be made for the disabled child in question, including any social care which is reasonably required as a result of his or her learning difficulties/special educational needs.

More detail on EHC assessments and EHC plans is given in our guide [Education in England: A Guide for Parents](#). The specific interaction between EHC assessments/ plans and “children in need” assessments is considered further below in [section 3.6 on page 11](#).

## 1.5 Practical tips

Remember that you bring an expertise that professionals working with your child do not have. You know your child very well and you know how your child’s disability and/or health care condition affects both your child and other members of your family. You should be involved in assessments of your child’s social care needs and related meetings, such as reviews of your child’s care plan. You may also receive a parent carer’s needs assessment.

In order to prepare for such meetings and assessments you might find it helpful to:

- Make a note of the discussions that you have with practitioners about your child’s health and wellbeing, for example confirmation of your child’s diagnosis
- Keep all relevant papers together in one place

(this might include for example, letters you receive from health, social care and other practitioners, copies of your letters to such professionals concerning your child and notes of your discussions with them)

- Prior to an important meeting or assessment of you or your child, make a note of the points that you want to discuss. These might include:
  - ◆ your child’s needs and aspirations (what your child is able to do, what s/he is not able to do and what might help to enable your child to achieve his or her aspirations)
  - ◆ your caring role and its impact on you and your family (how much care you provide and how often; whether this is impacting on your health, ability to work, see friends, spend time with other members of your family; whether you have any financial concerns)
  - ◆ how other members of the family are affected by your child’s disability
  - ◆ what you want to happen as a result of the meeting, including the timescale and who is to do what, and clarifying whether past undertakings have been completed, and if not, why not, and when these will be completed.

During the meeting, try to keep a note of all key statements and promises – especially who has agreed to do what and when – and any outstanding questions. Then email or post a letter to the person in charge of the assessment, confirming these points and raising any questions that are of concern to you.

It is also sensible for parents to familiarise themselves with the key content of certain important documents produced by their local authority which are relevant to the provision of social care for disabled children. In particular, it may be useful to refer to:

- The “threshold documents” which are published by all local authorities setting out (amongst other matters) the criteria, including the level of need, for when a case should be

referred to local authority children's social care for assessment and for statutory services (for children in need).

- The "local protocols for assessment" which, again, local authorities must publish setting out clear arrangements for how cases will be managed once a child is referred, as well as the way in which different kinds of assessment (e.g. children in need assessments and EHC needs assessments) will inform one another.
- The "local offer" which, following the introduction of the [Children and Families Act 2014](#), all English local authorities must publish, setting out the provision (including social care provision) which they expect to be available in their area for children who have special educational needs or a disability. This must include information as to any [eligibility criteria](#) which the local authority in question applies to the provision of social care services for disabled children.

At least a passing familiarity with these documents will be of great assistance to parents in their discussions with local authorities on the social care provision to be made for their children. In particular, local authorities must generally act in accordance with their own published policy unless they have very good reasons for not doing so. A parent who is aware of what the policy documents say will therefore be in a better position to ensure that the local authority provides the full support that his or her disabled child is entitled to.

## 1.6 How can I get hold of these key documents?

These documents should all be easily accessible online. If this is not the case, they should certainly be provided on request. When writing to a local authority (e.g. in the context of a request for a needs assessment, or in the course of a complaint about service provision), parents should take the opportunity to request these documents if they are not readily available.

# 2. When might my child be entitled to additional support?

If your child is a [disabled child](#), your local authority may be required to provide additional social care services and support. This is because local authorities have specific duties towards all children in their area who meet the legal definition of a "[child in need](#)", and all children who are disabled qualify as children in need.

The key pieces of legislation setting out local authorities' duties in this area are the Children Act 1989 and the Chronically Sick and Disabled Persons Act 1970 (CSDPA 1970).

## 2.1 What is the legal definition of a 'child in need'?

Under section 17(10) of the [Children Act 1989](#), a child is in need if:

- s/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 of services for him or her by a local authority; or
- his/her health or development is likely to be significantly impaired or further impaired without the provision for him or her of such services; or
- if s/he is disabled (see below).

## 2.2 What is the legal definition of a disabled child for social care purposes?

For the purposes of the legislation on children in need, a child is disabled if he or she 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”.

This is a wide definition – particularly because it includes a “mental disorder of any kind” (which of course would include not just a child with learning disabilities or a mental health problem but one with, for example, “high functioning autism”, Asperger Syndrome or Attention Deficit Hyperactive Disorder).

## 2.3 Does my child have to meet the statutory definition of “disabled” in order to be treated as a “child in need”?

Despite this wide definition of “disabled”, you may be told that the local authority does not consider that your child falls within it. This might be because you are told that your child’s disabilities are not considered substantial enough, or because there is no medical diagnosis of mental disorder. If this happens, you should ask for a written explanation for this conclusion. Importantly, though, your child may **still** be a “**child in need**” even if he or she does not meet the statutory definition of “disabled”. This is because the definition of a “child in need” **also** includes those children who are unlikely to reach or maintain a reasonable standard of health and development, or whose health and development will be significantly impaired, without the provision of services by the local authority concerned.

Local authorities must consider:

- whether the child in question is “disabled”, as defined under the statute;
- the effect of any failure to provide additional services on that child’s “health and development”.

Therefore, if you are told by your local authority that it does not consider your child to be a **disabled child/child in need**, you should ask the local authority to reconsider its decision, by reference to the two key factors above. You should also ask for copies of the local authority’s “threshold document” and “local protocol” (see [section 1.5 on page 7](#)), if they are not already easily available online. These documents will be useful in helping you to see whether the local authority is following its own published policy, and may need to be referred to in any complaint or (if it comes to it) legal proceedings.

## 2.4 How will my local authority determine whether my child needs additional support?

In order to ascertain whether additional services and support are required to meet your child’s (and your family’s) needs, the local authority will need to carry out an assessment of those needs. Section 3 explains the circumstances in which such an assessment will be carried out and the process which local authorities will follow.

Services and support can be provided not only to your child but also to any members of your family if that will assist your child. For example, it is recognised that providing services which can be regarded as meeting the needs of parents (e.g. by “short breaks” or respite care) is often an effective way of promoting the welfare of children, in particular disabled children. “**Parent carers’ needs assessments**” are considered separately on page 18.

# 3. The Assessment Process

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This section seeks to answer some of the key questions which parents are likely to have in relation to the assessment process for disabled children's social care needs. It principally focuses on "children in need" assessments (which entail, in the case of disabled children, assessments of what support is necessary under the [CSDPA 1970](#)). However, it is important to note that children in need assessments may interact with the new process for EHC needs assessments under the Children and Families Act 2014; this is also considered below (with more detailed information available in our guide [Education in England: A Guide for Parents](#)).

## 3.1 What is a 'child in need assessment'?

A 'child in need' assessment is an assessment carried out by a local authority of the services (including social care services) that should be provided to, and any other actions that should be taken in respect of, a child in its area who meets the statutory definition of being "in need" ([see section 2.1 on page 8](#)), in order to safeguard and promote that child's welfare.

## 3.2 Is there any government guidance on children in need assessments?

The government has published statutory guidance, entitled [Working Together to Safeguard Children](#) (updated in March 2015), which explains the principles governing children in need assessments, including assessments of the needs of disabled children for additional social care services and support. This document is referred to below as "[Working Together](#)". It is a very useful resource for any parent who wants to know more about how children in need assessments should be carried out. Moreover, the law requires local authorities to follow the Working Together

guidance (e.g. in relation to the timescales for assessments), unless they have very good reasons for not doing so.

## 3.3 How can I request an assessment of my child's needs?

You should write to your local authority asking for an assessment of the needs of your child and your family. Alternatively you could ask a professional involved in the care of your child, such as your child's GP, to make the request to the local authority on your behalf. In either case, you should explain what problems you are having and what you would like help with (and if possible, the kind of help you would like to have).

The letter to the local authority should explain that your child has a disability, giving details of what that disability is (including any diagnosis that your child has been given). If you have written confirmation of your child's diagnosis, include a copy of this with your letter. Your GP should be able to provide confirmation of your child's condition.

You should explain that you have been advised that given your child's disability, s/he is a [child in need](#) under section 17 of the Children Act 1989 and that this means that your child has a right to an assessment of his/her needs.

The local authority is required to inform you whether it will carry out an assessment within **one working day** of receiving the request for the assessment. You should therefore include in your letter the date on which you want a response to your request, giving your contact details (address, phone number, email address etc). Put this date in your diary and be prepared to telephone the local authority if you have not received a reply. The local authority should inform you of its decision i.e. whether it is going to carry out an assessment or not and the reason for this decision.

To request an assessment you should contact your local authority's Children's Services department (bearing in mind that the department may have a slightly different name depending on the local authority where you live).

You should be able to find the contact details in your local telephone directory or on the internet (the local authority should have the contact details on its website).

### 3.4 Does my local authority have to carry out an assessment if requested to do so?

Even though the legislation does not expressly state that local authorities **must** assess the needs of children in need (including disabled children) in their area, the courts have made it clear that there is an implied **duty** on local authorities to carry out an assessment of this type. [Working Together](#) makes it clear (page 13) that a local authority must **also** assess whether it is necessary to provide the specific forms of social care support that may be provided under [CSDPA 1970](#) in order to meet the needs of the disabled child in question.

Accordingly, if your child is disabled, the local authority must carry out an assessment to identify his or her needs and those of the family more broadly. This is why it is important to make clear in your letter requesting an assessment the reasons why you consider that your child is a [child in need](#).

### 3.5 What about assessments of special educational needs (SEN)?

Importantly, following recent changes in the law contained in the Children and Families Act 2014, there is also now a **specific** duty for local authorities in England to carry out an "[EHC needs assessment](#)", being an assessment of the educational, health and social care needs of a child, in any case in which the authority is of the opinion that the child in question has or may have

special educational needs, and that it may be necessary to make special educational provision in accordance with an "[EHC plan](#)". A child will have "special educational needs" when he or she has a learning difficulty or disability which calls for special educational provision to be made for him or her. More guidance on when a child will be regarded as having a learning difficulty or disability for these purposes is given in our guide [Education in England: A Guide for Parents](#).

Although by no means all disabled children have special educational needs, for many parents of disabled children this is an important new statutory duty on local authorities. In particular, and helpfully, the threshold for carrying out an assessment is relatively low: it arises wherever the local authority considers that a child may have special educational needs and that it **may** be necessary to make special educational provision in respect of those needs.

### 3.6 How do children in need assessments interact with Education, Health and Care needs assessments?

It may well be the case that your child meets the statutory definition of a "[child in need](#)" and may also have a learning difficulty or disability for the purposes of the Children and Families Act 2014. If this is the case, then your local authority will technically have a duty to carry out both a child in need assessment and an EHC needs assessment. In practice, however, local authorities should aim to carry out assessments in a way which minimises the interruption to the life of the child who is being assessed, as well as his or her family. This suggests that where two statutory assessments need to be carried out, this should occur simultaneously (as far as possible).

The government has published a new [Special Educational Needs and Disability \(SEND\) Code of Practice](#) to accompany the Children and Families Act 2014. This makes clear that EHC needs assessments should be combined with

children in need assessments, where appropriate (paragraph 10.18). The EHC plans which result from EHC needs assessments contain specific sections (H1 and H2) which must set out the social care provision to be made for a child. This emphasises the need for a joined-up approach to child in need assessments and EHC needs assessments. It is important to note, however, that a local authority cannot refuse to carry out an EHC needs assessment on the basis that a child in need assessment has already been carried out (or vice-versa).

Parents should contact their local authority if they need further information as to how children in need assessments will interact with EHC needs assessments, since different local authorities may have different protocols for assessment.

### 3.7 Can my local authority refuse to carry out a child in need assessment if my child does not have a medical diagnosis?

In some cases, local authorities may refuse to carry out an assessment of need in the absence of a medical diagnosis. Having a medical diagnosis from your GP or other medical professional may well be helpful in encouraging your local authority to carry out an assessment of your child's needs. A clear statement from a medical professional of your child's disability will often be invaluable in getting the right support at the right time.

However, it is important to bear in mind that there is no requirement under the legislation for a medical diagnosis to be presented before an assessment is carried out. All that is necessary is for the local authority to be satisfied that your child is a "child in need" which (as we have already considered) does not actually require that he or she should fall within the statutory definition of having a "disability", but will also be the case if your child's health or development will be hampered in the absence of additional services. When faced with a request for an assessment, your local authority should at the very least consider for itself

whether your child is disabled (or otherwise within the definition of a child in need), seeking input from health professionals as necessary.

(Similarly, a definitive medical diagnosis is not a pre-requisite for entitlement to an adult social care assessment under section 9 of the Care Act 2014, and there is no reason why the same approach should not apply to social care assessments for disabled children.)

An unreasonable insistence on a formal medical diagnosis may well give rise to good grounds for a complaint, or even legal action (see section 8 on page 30). Similarly if the local authority refuses to carry out an assessment altogether despite being requested to do so, or fails to let you know when it intends to carry out an assessment or what form that assessment will take, you may wish to make a complaint – again, see section 8).

### 3.8 Is a medical diagnosis required before an EHC needs assessment will be carried out?

The new EHC needs assessments **must** be carried out wherever your local authority considers that your child **may** have special educational needs which warrant special educational provision, with no requirement for any definitive medical diagnosis.

### 3.9 What is the purpose of an assessment?

The purpose of an assessment is to find out what needs your child and your family have; what, if any, social care services and support should be provided to meet those needs; and who is best placed to provide them.

Although in most cases the local authority itself will be responsible for co-ordinating the assessment, it is likely that other agencies will be involved, such as health and education (particularly in the case of **EHC needs assessments** under the Children and Families Act 2014).

## 3.10 What are the typical phases in the assessment process?

An assessment consists of three phases:

1. (The gathering of relevant information (which will of course include talking to you and your child and all the other key persons in your child's life);
2. The considering of the information and documents gathered in the first phase and then deciding which of your child's needs and your family's needs are such that they require additional social care support services to be provided; and
3. Ensuring that this support is set out in a detailed care plan (see section 6 on page 24) and then either provided directly by the local authority concerned, or by making a "direct payment" to cover your costs in arranging for the necessary services yourself (see section 5 on page 23).

## 3.11 What issues will be considered as part of an assessment?

The assessment may involve a number of assessments from different agencies (such as health and education). However, as a matter of good practice the assessment should be as un-intrusive to the child and family as possible. The assessment will look at a wide range of issues, but [Working Together](#) makes clear (paragraph 36) that a "good" assessment is one which focuses on three key "domains", namely:

- Your child's developmental needs (which may include health, education, emotional and behavioural development, family and social relationships and self-care skills)
- Your capacity as a parent/carer to respond to those needs (so-called "parenting capacity", which includes the capacity to provide basic care, ensuring safety and stability)

- The impact and influence of wider family, community and environmental circumstances (such as the family's housing, employment and income situation).

The assessment will consider issues such as the impact of your child's impairment, for example whether it affects his/her growth, development and physical or mental wellbeing and what action could be taken to ensure that your child has maximum access to family, education and community life.

## 3.12 Who will be involved in the assessment and how will it be carried out?

In most cases, a social worker from the local authority will take the lead role in co-ordinating the assessment of your child's needs, although professionals from other agencies may also be involved. The social worker must of course meet with you and your child as well as other key persons (such as other members of your family) and may need to meet you a number of times.

The professionals undertaking the assessments should follow the policy and practice guidance for the assessment of children set out in [Working Together](#). You may hear professionals refer to other assessment procedures, such as the Common Assessment Framework (CAF) and, if your child has mental health problems, the Care Programme Approach (CPA). However, both of these should be used in conjunction with the process set out in [Working Together](#), which is the guidance which all relevant professionals are expected to follow so that they can respond to individual children's needs appropriately (paragraph 7).

## Working Together expects that:

- The specific needs of disabled children should be given sufficient recognition and priority in the assessment process (paragraph 31).
- Assessment should be a “dynamic” process (paragraph 30), and evidence should be built and revised throughout the process as and when further information comes to light (paragraph 44).
- All children and parents should be considered as individuals, and family structures, culture, religion, ethnic origins and other characteristics should be respected (paragraph 42). This may require a local authority to offer help in your (or your child’s) first language.

A key part of the planning for this assessment will be deciding who is involved; for example, which professionals and which family members will be included. **Working Together** makes clear that, in carrying out an assessment, the social worker should “draw together relevant information gathered from the child and their family and from relevant professionals including teachers, early years workers, health professionals, the police and adult social care” (paragraph 43). These individuals may be invited to provide information and give their views on your child’s needs (which may mean that they will want to talk to you and your child).

The people who will be involved in the assessment will need to be discussed and agreed with you and your child. This is so that you know what assessments are needed and why; who will be involved in these assessments; when they will be carried out; how the various assessments will inform overall judgments about your child’s needs; and what services are required to meet those needs.

You should be informed about where the assessment(s) will take place (generally, and where practical, it should take place in your home) and how long they will take.

In addition to your child’s assessment, your needs as a parent carer must also be considered (see below). This is because recognising your needs, and providing the support necessary to meet those needs, will be central to promoting your child’s welfare.

## 3.13 Will my views and the views of my child be taken into account?

Your views will be of great importance and you should be encouraged to contribute to the process. If you would like a friend, advocate or relative to support you during the assessment, this should be arranged.

Your child should also be told, in a manner appropriate to his/her age and understanding, why these assessments are being carried out and be encouraged to be involved in the assessment process. Those responsible for planning the assessment should consider whether your child or other family members have any communication needs and if so, how these might be met.

**Working Together** emphasises the fact that assessments should be “child-centred” and that, where there are conflicts between different views, the best interests of the child are paramount. Wherever possible, children should be seen alone, with an attempt being made to ascertain the child’s own wishes and feelings regarding the nature of any services to be delivered (paragraphs 39 and 41). You should also be aware that under section 19 of the Children and Families Act 2014, local authorities are specifically required to take into account both your wishes and your child’s wishes when carrying out EHC needs assessments and formulating an EHC plan.

## 3.14 How long should an assessment take?

As [Working Together](#) recognises (page 10), “for children who need additional help, every day matters”. Accordingly, it is vital that assessments are carried out in a timely fashion.

Within **one working day** of your request for an assessment being received, a local authority social worker should make a decision about what response is required and notify you of that decision.

Assuming that the local authority agrees to carry out an assessment of need, how long will this take? While [Working Together](#) specifies a timescale for the assessment process, this is not always adhered to. The key issue, in this context, is “reasonableness”. Is the time taken reasonable? If the need is urgent, then the assessment process should be done quickly. If the need is complex and non-urgent, then it may of course take longer – especially if it necessitates meetings with many professionals. However, even in such cases, a local authority could implement part of the care plan as a short term measure. [Working Together](#) emphasises that **whatever** the timescale of the assessment, social workers should not wait until it is concluded before commissioning services, and that in some cases, the needs of the child will mean that a quick assessment is necessary (paragraph 61).

This means that there is no one-size-fits-all timescale for an assessment; what is reasonable will be determined by the specific needs of your child, which may emerge over time during the “dynamic” assessment process. Nonetheless, [Working Together](#) sets out a “maximum timeframe” of **45 days** from the point of referral. It is crucial to remember that this is an “outer limit” and not a target; failure to comply with the 45 day timeframe, without very good reason, will be a basis for a complaint and potentially legal action against the local authority concerned.

If you believe that there is a delay, due to the local authority not acting with due diligence, you should consider making a complaint about this ([see section 8 on page 35](#)).

When the assessment has been completed, you (and, if appropriate, your child) should be informed in writing, and/or in another more appropriate medium, of the decisions made. You should be given the opportunity to record your views, including any disagreements, and you can ask that corrections are made to the recorded information.

## 3.15 What will happen after the social worker has obtained all the relevant information?

Taking into account all the relevant information concerning your needs and the needs of your child and your family, the local authority must decide, which of the needs that have been identified require a response – i.e. whether it is ‘necessary’ that support be provided to address these needs. This may be referred to as deciding whether ‘an intervention is required’.

If you do not agree with any of the findings of the assessment, you should be given an opportunity to record your point of view on the assessment record.

## 3.16 Can my local authority use “eligibility criteria” to determine whether my child is entitled to social care services?

An issue which often arises in practice, and which can be controversial, is the use by local authorities of “[eligibility criteria](#)” in the context of an assessment of disabled children’s needs, and the provision of social care services to support those needs.

It is important for you to be aware of **two** different “stages” of the process at which eligibility criteria may arise:

1. A local authority may seek to use eligibility criteria to determine **whether** an assessment of needs should be carried out in the first place. However, if the criteria used are more onerous than the definition of a “**child in need**” under section 17(10) of the Children Act 1989, then this will not be legitimate. This is because there is a specific duty to assess the needs of **any** child who meets the definition of a “child in need”. Local authorities are not allowed to impose their own additional hurdles (e.g. requiring a “serious” disability to be shown as opposed to simply a “disability”). If a local authority does appear to be going further than the definition of a “child in need” (as explained above), you should consider making a complaint, drawing their attention to the unlawfulness of their behaviour. If necessary, legal advice should be taken.
2. Separately, once a child’s needs have **been** assessed, a local authority may impose eligibility criteria to determine which social care services that child should be entitled to receive. This is not necessarily unlawful, although it is important to bear in mind that where the assessment determines that it is necessary to provide services under section 2 of **CSDPA 1970**, then those services **must** be provided. (The courts have also made clear that, where this is the case, local authorities cannot defend a failure to provide such services on grounds of cost.) Accordingly, if a local authority carries out an assessment and determines that it is necessary to provide any of the services listed in section 2 of the **CSDPA 1970**, then it cannot nonetheless use eligibility criteria to restrict access to those services. This was confirmed by Mrs Justice Black in an important judgment in 2009, in the case of *R (JL) v Islington London Borough Council*. However, that case also made clear that eligibility criteria **can** be used to decide whether it is “necessary” to provide the services

in the first place. This will involve considering the seriousness of the need against (for example) the resources available to the local authority. Again, however, once it has been decided that a particular service under section 2 of **CSDPA 1970** is necessary, then those services must be provided (regardless of cost).

It is fair to say that the issue of eligibility criteria is a complicated one. It is not helped by the fact that there is no statutory guidance on the use of eligibility criteria in the case of disabled children specifically. However, while the position is that local authorities may use eligibility criteria to determine whether it is “necessary” to provide particular services to those who have been assessed to be in need, those criteria must:

- be clear, publicly available and transparent. Notably, as part of the “local offer” introduced by section 30 of the **Children and Families Act 2014**, local authorities in England must publish information about any eligibility criteria governing access to social care services for disabled children (this particular requirement appears in the Special Educational Needs and Disability Regulations 2014).
- take account of equalities law, and in particular the “public sector equality duty” in section 149 of the Equality Act 2010 (**see section 7 on page 26**), which requires public authorities to consider the need to eliminate discrimination and promote equality of opportunity. In the *Islington* case referred to above, Mrs Justice Black held that in imposing eligibility criteria stipulating a maximum of 12 hours’ provision for any given child, the local authority had breached equalities law.
- be compatible with the **Human Rights Act**, for example the right to respect for family life. Where eligibility criteria limit the availability of services in such a way that severe disruption is caused to a family’s relationships with one another, this may be unlawful.

Given the complexity of this area, it is likely to be sensible for parents to seek legal advice where it is unclear whether a particular set of eligibility criteria are unlawful.

However, what is very clear is that eligibility criteria cannot be used to refuse an initial assessment of need, or as a basis for refusing to provide services listed in the CSDPA 1970 after an assessment that such services are necessary.

### The following examples may be useful in illustrating when eligibility criteria will be, and will not be, lawful:

- **Your local authority refuses to carry out an assessment of your child's social care needs because it claims that only children with "severe disabilities" are eligible for an assessment.**  
This will be unlawful, since it goes beyond the statutory definition of a "child in need", which contains no reference to a disability being "severe".
- **Your local authority carries out an assessment of your child's social care needs, and informs you that it is satisfied that it is necessary to provide practical assistance for your child in the home. However, it says that your child is unfortunately ineligible for the support it has identified because it has resource constraints, and because your child has received a "score" indicating that his needs are insufficiently severe to require the assistance that is necessary.**  
This is likely to be unlawful. Once a local authority has satisfied itself that particular services are necessary, it is under a duty to provide them, and cannot rely on resource considerations or eligibility criteria to deny access.
- **Your local authority publishes eligibility criteria which state that only children scoring a certain number of "points" will qualify for additional social care support, with points awarded on the basis of the level of need arising from the child's own disability as well as family/ environmental factors.**  
This is likely to be lawful. In the *Islington* case, Mrs Justice Black explained that there was no problem with a local authority using a points system to identify families with more pressing needs than others and determining that it would only provide additional services to those families. However, it was not lawful to go on to specify a maximum number of support hours which could be provided to particular families meeting the initial points-based criteria
- **Your local authority carries out an assessment and then writes to inform you that it has decided not to provide any support to your family on the basis that "you have not satisfied our eligibility criteria".**  
If the local authority fails to explain its decision by reference to published eligibility criteria, this is likely to be unlawful, even if the underlying eligibility criteria are not unlawful in their own right. Public bodies are required to be transparent and to publish any eligibility criteria on which they rely in determining access to social care services.

## 3.17 Will my own needs be assessed as well?

Yes, your needs are an integral part of the assessment of your child's needs. Your child's assessment should be "holistic", meaning that it should take into account your needs and the needs of other family members (and "significant others").

With effect from 1 April 2015, local authorities in England have a duty (introduced by the Children and Families Act 2014 and now appearing in section 17ZD of the Children Act 1989) to assess whether a parent carer has needs for support, and if so, what those needs are. This duty arises

if it appears to the authority that the parent carer may need support or if the parent carer requests an assessment. This is known as a "**parent carer's needs assessment**" (PCNA), and may be carried out at the same time as an assessment of a disabled child's own needs. The PCNA must include an assessment of whether it is appropriate for you to provide (or to continue to provide) care for your child, in the light of your needs for support, as well as your other needs and wishes.

When carrying out a **parent carer's needs assessment**, the local authority must have regard both to your own well-being and to the need to safeguard and promote the welfare of both the disabled child you are caring for, and any other child for whom you have parental responsibility.

### "Well-being" includes the following:

- physical and mental health and emotional well-being;
- protection from abuse;
- control over day-to-day life (including over the care and support provided to the individual and the way in which it is provided);
- participation in work, education, training or recreation;
- social and economic well-being;
- domestic, family and personal relationships;
- the individual's contribution to society.

In carrying out a **parent carer's needs assessment**, the local authority must involve you, any child for whom you have parental responsibility, and any other person you ask them to involve (e.g. other family members). Having carried out the assessment, the local authority must provide you, and any other person you specify, with a written record of the outcome.

The local authority must take the results of your PCNA into account when deciding what services, if any, to provide to your child and your family. It must also consider whether you have any needs independent of your child's needs (for example because you have a disability or illness). If so, you may be entitled in your own right to a "needs assessment" under section 9 of the Care Act 2014 (being an assessment carried out for people aged 18 and over to determine whether they require adult community care services).

# 4. What can Local Authorities do for us?

## 4.1 What help and support might a child/family receive following an assessment?

There is a range of different social care services which local authorities may provide to disabled children. These include:

- Accommodation
- Assistance in finding accommodation
- Day centres and other facilities
- Advice and support from social services
- Occupational, social, cultural or recreational activities
- Advice, guidance and counselling
- Home adaptations and 'additional facilities designed to secure the person's greater safety, comfort or convenience'
- Services in the home:
  - practical assistance in the home, including home help and laundry facilities,
  - provision of meals, whether in the person's home or elsewhere
  - domiciliary and care services to people living in their own homes and elsewhere
  - Provision of travel and other assistance to enable the person to participate in services provided
  - Providing, or helping the person to obtain a 'telephone and any special equipment necessary to enable him to use a telephone'
  - Providing, or helping the person to obtain 'wireless, television, library or similar recreational facilities'
  - Provision of lectures, games, outings or other recreational facilities outside the person's home or assistance in helping the person in taking advantage of available educational facilities

- Services to minimise the effect on disabled children of their disabilities or give such children the opportunity to lead lives which are as normal as possible (such as short-term breaks)
- Facilitating holidays
- Short term breaks ('respite care')
- Direct payments and personal budgets

If the local authority decides that your child and your family require help and support, then it must decide what type of help and support should be given. The type of help and support offered to you and your family will depend on your assessed needs.

If such needs can be addressed by services in your home or in a community setting, then they will generally be provided under section 2 of the [Chronically Sick and Disabled Persons Act 1970](#) and the local authority must provide for such needs.

This includes the following services:

- Practical assistance in the family home such as home help, personal care, equipment and a sitting service
- Community based services such as a day centre, after-school club, holiday play scheme etc.
- Travel and other assistance to help your child participate in activities such as recreation or education
- Adaptations to the home

If you or your family are finding it difficult to cope then the local authority will need to consider what support is required. This may mean that you are provided with services known as 'respite care' or 'short term breaks'. While these may be described as services to you and your family, they are in fact services for your disabled child because these services are helping you and your family support your child.

They also help to address your child's need to have a family that is not pulled apart due to the pressures of caring for a disabled child.

Short term breaks include the provision of a 'sitting service' (i.e. someone to look after your child in your home), an overnight 'in home' service or your child spending time in a community-based day care facility. Such breaks could also include your child spending a short time in residential accommodation. The provision of accommodation for your child both on a temporary basis (as 'respite care' or 'short breaks'), or on a longer term basis is discussed below.

The help and support that is to be given to your child and your family must be set out in a care plan (which might also be referred to as 'a plan of action' or a 'support plan'). The contents of the care plan should be discussed and agreed with you and your child. If you are informed that no services or support will be provided to you and/or your child you may wish to make a complaint about this.

## 4.2 Will we be charged for the services that are provided?

Local authorities are permitted to charge for services they provide to children, whether under [CSDPA 1970](#) or under the [Children Act 1989](#). For children under 16, the local authority may take into account the financial circumstances of the parent; where a child is 16 or over, then it may take into account the child's own means. While it is true that local authorities typically do not charge for services for disabled children, this may change in the future if further cuts are made to children's services budgets. However, under the Children Act 1989, it is not permissible to charge more than you can "reasonably" afford, and you cannot be charged if you are receiving income support or other benefits (see section 29 (3) of the Children Act 1989).

## 4.3 What should I do if my family needs a break from caring?

You should ask for an assessment of your child's needs, as well as a Parent Carer's Needs Assessment (see [section 3 on page 10](#)).

The need for families to have breaks from caring is now well recognised. As discussed above, it may be possible for short term breaks to be arranged by providing additional services in the family home, such as a sitting services for your child while you and other members of your family go out. However, in some cases it may be necessary for your child to spend a short time away from the family home. This is when short term residential accommodation should be considered. While "residential short breaks" are not one of the services listed in section 2 of [CSDPA 1970](#), local authorities may provide such services under the [Children Act 1989](#). Indeed, paragraph 6(1)(c) of Schedule 2 to the Children Act 1989 contains a specific duty (introduced by the Children and Young Persons Act 2008) on local authorities to provide services to give carers breaks from caring.

There are also specific regulations (the Breaks for Carers of Disabled Children Regulations 2011) in this area. These provide that local authorities must consider the needs of carers who would be able to provide more effective care if breaks from caring were given to them to allow them to undertake education, training or any regular leisure activity, to meet the needs of their other children more effectively or to carry out day-to-day household tasks. Local authorities must provide a range of short break services, including daytime care, overnight care, educational and leisure activities and services available to assist carers in the evenings, at weekends and during school holidays.

## 4.4 Are local authorities required to publish information about short breaks?

The short break services which a local authority makes available must be set out in a "Short Breaks Services Statement" (which must also specify any eligibility criteria that are applied to access to short breaks services). Where this document is not readily available (e.g. online), it should be provided on request by your local authority. Your local authority's Short Breaks Services Statement will be an important tool in the context of any complaint, given that local authorities are generally required to comply with their own published policies.

## 4.5 Is it true that I will only get help in the form of a short breaks service if my family is in a crisis situation?

If you and your family have reached a crisis point and the only appropriate means of supporting you is to provide accommodation for your child, then the local authority must do so under section 20 of the Children Act 1989. However this is not the only time that you can get help.

Guidance issued by the Department for Education in 2011, 'Short Breaks for Carers of Disabled Children: Departmental Advice for Local Authorities', ([see Resources section on page 35](#)) emphasises that 'families should not have to reach crisis point before they receive a short break'. It gives examples (on page 7) of when short term breaks will have a positive impact, namely where a carer is:

- unable to attend regular training, education or leisure activities because of the level of care required by the child;
- unable, or limited in their ability, to provide care for other members of the family or attend to maintenance of the household because of the care needed by the child;

- struggling to find the capacity to care for the disabled child without a short break; and
- where the provision of short breaks would clearly enable a carer to provide more effective parenting and care.

If your situation is similar to these examples you may wish to consider asking for a short term break. In deciding whether to provide such a service, the local authority will apply its [eligibility criteria](#) (see discussion on page 21). However, the local authority will be required to meet the needs of your child by taking some action if such intervention is 'required to secure' your child's wellbeing.

## 4.6 What if my child's support needs means that I cannot provide care at home?

If you and your family are finding it difficult to cope with caring for your disabled child then you should ask for an assessment of your child's needs, as well as a parent carer's needs assessment ([see section 3 on page 9](#)). It may be that by revising your child's care plan so that you are provided with more support, including, but not necessarily limited to, short-term breaks, you and your family find that you can provide your child with the help and support that s/he needs.

The local authority should try to do everything possible to enable your disabled child to remain with your family and in order to do so is likely to invite other agencies, such as NHS bodies, to assist in the assessment of your child's needs.

You, together with your child and other members of your family should be involved in deciding what help and support can be provided so that your child can continue to live at home. However, it may be that your child's disability and/or health care needs are of such a high level and/or severity that it is no longer feasible for your child to be cared for in the family home.

If the local authority concludes that you and your family are not able to provide your child with care or accommodation, then under section 20 of the Children Act 1989, it must provide your child with accommodation. It does not matter whether the situation is likely to be temporary or permanent, nor does it matter why this situation has arisen. If your child is of school age, it may be that a residential placement is appropriate.

## 4.7 Will my child and I be consulted about a placement away from home?

The local authority will not be able to place your child away from home if you or anyone else with [parental responsibility](#) objects to this. (If they wanted to take such action without your agreement they would need to start care proceedings.) In addition, before providing the placement, the local authority will need to take steps to ascertain the wishes and feelings of your child and take these into account.

## 4.8 I have been told that my child is a 'looked after child' – what does this mean?

The definition of a 'looked after child' includes children who are subject to a care order under section 31 of the Children Act 1989. It also includes some children and young people under the age of 18 who have been accommodated under section 20 of the Children Act 1989, including those who are accommodated away from home, for a short period as part of the local authority's short break services.

If your child is receiving short term break services under section 17 of the Children Act 1989, s/he will not be a 'looked after child'. However if the short term breaks are being provided under section 20 of the Children Act 1989, s/he may fall within the definition of a 'looked after child'. It is therefore important to clarify whether the accommodation provided to your child is under

section 17 or section 20 of the Children Act 1989. In summary:

- If your child is being provided with accommodation under section 20 of the Children Act 1989, s/he will be a looked after child if the placement lasts for a continuous period of more than 24 hours.
- If your child is being provided with short break accommodation for 24 hours or less, then s/he is not a looked after child even if the accommodation is being provided under section 20 of the Children Act 1989.
- If your child is provided with accommodation under section 17 of the Children Act 1989, your child will not be a looked after child.

Local Authorities are required to provide a range of support to young people that are, or have been, 'looked after children' as they make their transition to the responsibilities of adulthood. The extent of the local authority's responsibilities will depend on how often your child receives short term breaks and how long each of these breaks last. If they are not more than the periods set out below, then the local authority's support will be focused on the preparation of a 'short term break plan', which seeks to ensure that the child or young person's needs are met while they are away from their parents.

The relevant periods are as follows:

- if the child/young person receives the short break in the same setting; and no single placement lasts for more than 17 days; and the total of the short breaks in one year is 75 days or less. (Care Planning, Placement and Case Review (England) Regulations 2010 SI no 959, paragraph 48)

The [Resources section](#) provides sources of further information on the range of 'leaving care' support that Local Authorities must provide. (See 'Care planning for looked after children and care leavers' and 'Short term breaks' on pages ##).

# 5. Direct Payments and Personal Budgets

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## 5.1 Can we arrange the services ourselves?

If you would like to do so, you can ask that rather than arranging services for your child, the local authority makes a regular payment to you, so that you can purchase the services for your child. These payments are known as 'direct payments'. They can cover the cost of a wide range of services, although they cannot be used to purchase services actually provided by the local authority, nor can they be used to purchase long periods of residential care.

Direct Payments can be paid to you on behalf of your disabled child until your child reaches the age of 18. However, young people aged 16 and over have the right to manage their own direct payments so long as they have sufficient mental capacity to do so, even if they need some help. If you use direct payments to employ someone (such as a carer or personal assistant), the amount of the payment should be sufficient to pay all additional costs – such as Employer's NI contributions, holiday pay, employers liability insurance.

The specific criteria for the grant of direct payments are set out in the Community Care, Services for Carers and Children's Services (Direct Payments) Regulations 2009. You will be entitled to a direct payment, on request, if the local authority is satisfied that:

- You are capable of managing the direct payment by yourself or with assistance;
- Your child's need for a particular service can be met by way of a direct payment; and
- Your child's welfare will be safeguarded and promoted by a direct payment for the service he or she needs.

## 5.2 Are there any other restrictions on the availability of direct payments?

There are some other restrictions on direct payments; in particular, they cannot generally be used to pay a relative who lives in the same household as you. Moreover, direct payments may not be used to purchase any single period of residential respite care exceeding 4 weeks or any periods exceeding 120 days in total during any 12 month period. Aside from these restrictions, however, the general position is that you have the right to insist on a direct payment in order to purchase the services which have been assessed as necessary to meet your child's needs. If your child is already receiving services directly from your local authority, then you can ask for these to be **replaced** by direct payments. You can also request a "mixed" package whereby some services are provided directly, and you are provided with direct payments to purchase others.

## 5.3 What is a 'personal budget'?

Personal budgets are local authority money apportioned to individuals to manage their care costs in line with an agreed support plan, following a full assessment and financial allocation by the local authority. Personal Budgets can be paid in the following ways:

- As a direct (cash) payment held by the individual (in which case, they are, at law a 'direct payment'- see above);
- An account held and managed by the local authority in line with the person's wishes;
- An account placed with a third party and managed by the individual or by carers, friends or trustees;
- As a mixture of the above.

Not all Local Authorities have developed 'personal budgets' for disabled children's services. Personal budgets are, however, merely a way in which the local authority can meet the assessed needs of your child and your family. Your child or you and your family can still insist on the local authority providing services to meet these assessed needs or if your child or you and your family so choose, you can still opt for a direct payment. The amount of the payment must be sufficient to purchase the services identified as necessary as a result of the assessment.

## 5.4 How have recent changes to the law impacted direct payments / personal budgets?

Under section 49 of the Children and Families Act 2014, you have a specific right to ask your local authority to prepare a personal budget in relation

to the provision, including the social care provision, specified in any [Education Health and Care plan \(EHC\)](#) maintained for your child. This is explained in detail in our guide [Education in England: A Guide for Parents](#). It is important to note, however, that even where a local authority does not maintain an EHC plan for your child, you are still generally entitled to insist on having support in the form of direct payments allowing you to buy the necessary services yourself, provided that the criteria set out above are satisfied. This is of particular relevance for parents of children who have a disability but who do not have special educational needs which require special educational provision, meaning that the provisions on EHC plans in the Children and Families Act 2014 are not applicable.

# 6. Care Plans

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## 6.1 What should be in my child's care plan?

Your local authority should produce a "care plan" which is based on the findings of the assessment of your child's needs and how you and your family might be helped to respond to those needs through the provision of social care services and support. You should be given a copy of the plan. The [Working Together](#) guidance is clear that this plan should be agreed between the social worker who carried out the assessment, his or her manager and any other professionals, and should be discussed with both your child and your family. It should set out "what services are to be delivered, and what actions are to be undertaken, by whom and for what purpose" (paragraph 53). It should include agreed objectives for your child, such as health and development objectives, and how progress is to be measured. These are necessary in order to check that your child and your family are being given the right kind of services and support.

Given the clear steer provided by the [Working Together](#) guidance, if you consider that the care plan produced by your local authority is vague, unclear or otherwise unhelpful, you should not be hesitant to raise this with your local authority, including by way of a complaint if necessary. Ultimately, a failure to produce a clear and comprehensive care plan could be challenged in court; indeed, there have been a number of legal cases in which care plans have been overturned for failing to provide a sufficiently clear identification of needs, what is to be done about them, by when and by whom.

## 6.2 How often will the care plan be reviewed?

The [Working Together](#) guidance does not specify how often a care plan should be reviewed, simply providing that it should be reviewed “regularly”. This fits with the approach to timescales for assessment; essentially, the key question is reasonableness. In particular, if there is a change in your child’s circumstances (e.g. a deterioration in a physical or mental condition) then it will likely be necessary for your local authority to review the care that is being provided without delay, and irrespective of when the care plan was most recently updated.

The guidance which preceded [Working Together](#) (the Framework for the Assessment of Children in Need and their Families) specified that care plans should be reviewed at least every six months, and this continues to represent a sensible maximum timeframe for care plan review (although notably [EHC plans](#) must be reviewed at least every 12 months under the Children and Families Act 2014; see below).

You and your child should be involved in the review process, as should the professionals who have a key role in providing the care and support to your child and family under the existing plan. If you have minor concerns with the package of care your child is receiving then a care plan review meeting is a useful opportunity to raise these; however, for more serious concerns, you should not feel the need to wait until an arranged meeting and should raise them with your local authority directly (via their complaints procedure if necessary).

## 6.3 How is social care dealt with in the new Education, Health and Care (EHC) plans?

Where your child has an EHC plan under the new law introduced by the Children and Families Act 2014, then any social care provision should be included in the EHC plan itself. Specifically:

Section H1 of the EHC plan should set out the provisions which are to be made under section 2 of [CSDPA 1970](#). The [SEND Code of Practice](#) states (page. 167) that the provision in question should be detailed, specific and quantified, setting out the type of support and who will provide it (including whether it is to be provided by way of a direct payment).

Section H2 of the EHC plan is reserved for other provision not provided under [CSDPA 1970](#) but which is “reasonably required by the learning difficulties or disabilities which result in the child... having SEN”. In practice, this is most likely to refer to residential short breaks (which as discussed above cannot be provided under [CSDPA 1970](#)).

Under section 44 of the Children and Families Act 2014, EHC plans must be reviewed at least every 12 months, at which stage the effectiveness of the specified social care provision should be considered. A social care representative must be invited to the review meeting, and given two weeks notice ([SEND Code of Practice](#), paragraph 9.176).

# 7. The Equality Act 2010 and social care services

The Equality Act 2010 brings together wide ranging provisions to protect certain groups of people, including disabled people, from discrimination. It also requires public bodies such as local authorities to take action to eliminate discrimination from within their organisations (an obligation known as the 'public sector equality duty'). This section summarises how the Equality Act 2010 will be relevant to you and your disabled child when receiving (or seeking to receive) social care services from local authorities.

## 7.1 What protection does the Equality Act 2010 offer my child?

The Equality Act 2010 offers protection from discrimination and **harassment** to people based on a 'protected characteristic'. **Victimisation** is also unlawful. The following protected characteristics apply (with varying degrees of protection) in relation to services provided by local authorities or when they are exercising their public functions (such as making decisions about priorities for services):

- Age (for people aged 18 or over in a services and exercise of public functions context)
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation.

This guide focuses on the protected characteristic of disability. Your child will have a disability for the purpose of the Equality Act 2010 if they have a physical or mental impairment which has a substantial, long-term adverse effect on their ability to carry out normal day to day activities (a definition which resembles, but does not exactly

match, the definition of a disability in the [Children Act 1989](#)). As a disabled child, your child will receive protection when seeking to use services, using services and in certain circumstances, once they are no longer receiving the service.

The Equality and Human Rights Commission (EHRC) has issued a range of guidance on the Equality Act including the 'Services, public functions and associations: Statutory Code of Practice' ('the Services Code')—see [Resources section on page 35](#).

## 7.2 What protection does the Equality Act 2010 offer for my child when receiving social care services?

The Act makes it unlawful for service providers to discriminate against your child:

- in relation to a particular service;
  - ◆ by refusing to provide your child with the service and/or
  - ◆ by not providing your child with the same level of service or in the same manner or on the same terms as they would usually give to members of the public or to a section of the public to which they belong, such as hospital outpatients.
- by terminating the provision of the service;
- by subjecting your child to any other detriment.
  - ◆ 'Detriment' is not defined in the Act and has a broad meaning. The Services Code (paragraph 9.7) explains that while it does not need to have any physical or economic consequences, it should amount to something a service user 'might reasonably consider changed their position for the worse or put them at a disadvantage'.

In addition, a service provider must not engage in discrimination, harassment or victimisation when exercising a public function. The interpretation of this is broad. The Services Code (paragraph 11.26) explains that 'refusing to allow someone to benefit from the exercise of a function, or treating someone in a worse manner in the exercise of a function' are examples of the types of discrimination that would be covered by this provision.

## 7.3 What are the different forms of discrimination?

These are summarised below:

- **Direct discrimination** – treating one person less favourably than another because of a protected characteristic.

**Example:** an Accident and Emergency service refusing to treat a child who has fallen out of a tree because the child has Down's Syndrome and the service does not believe it has the necessary expertise to treat the child as a result.

Generally direct discrimination cannot be justified; however, in relation to age, direct discrimination can be justified if it is a proportionate means of achieving a legitimate aim. It is always lawful to treat a disabled person more favourably than a non-disabled person because of their disability.

Direct discrimination by association and direct discrimination by perception are also unlawful. 'Direct discrimination by association' means discriminating against a person on the basis of their association with another person who has a protected characteristic (e.g. turning someone down for employment on the basis that they have caring responsibilities for a disabled child and so will be unable to focus on the job). 'Direct discrimination by perception' means discriminating against someone based on a perception or belief that they have a protected characteristic, whether

or not that is actually the case (e.g. turning someone down for a job in the belief that the individual in question is over 40 years old and therefore too old, when in fact that person is significantly younger).

- **Indirect discrimination** – applying a provision, practice or criteria in the same way for all people, which has the effect of putting people who share a protected characteristic at a particular disadvantage compared with people who do not have that protected characteristic, unless it can be shown that it is a 'proportionate means of achieving a legitimate aim'
- **A failure to make reasonable adjustments** (for disabled people only) – see below.

**Example** (adapted from the Services Code): a GP's surgery sets up a website to enable the public to access its services more easily. However the website has all of its text embedded within graphics. Although it did not intend to discriminate indirectly against service users with a visual impairment, this practice places those with a visual impairment at a particular disadvantage because they cannot change the font size or apply text-to-speech recognition software and cannot access the website as a result. As well as giving rise to an obligation to make a reasonable adjustment to their website, this practice will amount to unlawful indirect discrimination on the basis of disability unless the surgery can justify it.

- **Pregnancy and maternity discrimination** – treating a girl / woman unfavourably because she is or has been pregnant, has given birth within the last 26 weeks or is breastfeeding a baby who is 26 weeks old or under.
- **Discrimination arising from disability** (for disabled people only) – treating a disabled person unfavourably because of something

arising in consequence of their disability, unless it can be shown that the treatment is a proportionate means of achieving a legitimate aim. If the service provider has failed to make an appropriate reasonable adjustment it will be very difficult for them to prove the treatment was justified. If the service provider did not know and could not reasonably have been expected to know that the person was disabled, the unfavourable treatment will not amount to discrimination arising from disability.

**Example:** a child with ADHD is turned down for a respite break as his social services department considers his behaviour (which is an involuntary consequence of his disability) will be too disruptive for other children. It would be for the social services department to justify this treatment. If it fails to make a reasonable adjustment which could have prevented or minimised the unfavourable treatment, it will be hard for it to do so.

## 7.4 How does the reasonable adjustments duty apply to services provided by local authorities?

The reasonable adjustment duty is an anticipatory and continuing duty owed to disabled service users generally. This means that local authorities need to think about and plan for the needs of their disabled service users in general and not wait until an individual disabled service user approaches them.

Both service providers and those exercising a public function are required to take reasonable steps to:

- avoid substantial disadvantage where a practice, provision or criterion puts disabled service users at a substantial disadvantage;

- avoid substantial disadvantage where a physical feature puts disabled service users at a substantial disadvantage; this covers removing the feature in question, altering it or providing a reasonable means of avoiding it, or where the disadvantage cannot be avoided, by providing a reasonable alternative means of providing the service or exercising the function;
- provide an auxiliary aid or service where a failure to do so would put a disabled service user at a substantial disadvantage.

(Note: 'Substantial' means more than minor or trivial in relation to the provision of services; there is a particular meaning given to substantial disadvantage when someone is subjected to a detriment in the exercise of a public function.)

**Example:** A physiotherapy service extends the usual time of their appointments to accommodate the extra time required by a girl with cerebral palsy who communicates by way of a communication aid assisted by her personal assistant. This is likely to be a reasonable adjustment to make.

If the provision, practice or criterion or the auxiliary aid or service involves the provision of information, the steps it is reasonable to take include taking steps to ensure the information is provided in an accessible format.

## 7.5 Can local authorities charge us for the cost of making a reasonable adjustment?

No – your child cannot be charged for the cost of making a reasonable adjustment.

## 7.6 What is the public sector equality duty and how is it relevant to local authorities?

The public sector equality duty (which seeks to eliminate discrimination from within a public body) has two parts: a general duty and a set of specific duties. Not all public bodies are subject to both parts of the duty. Organisations which are not public bodies but carry out a public function as part of their work will be covered by the general part of the duty in relation to the exercise of that function. Local authorities are public bodies and are subject to both the general and the specific public sector equality duties. Some individual members of staff may exercise a public function in the course of their duties and when doing so will be subject to the general public sector equality duty. The public sector equality duty covers all the protected characteristics which apply in a services context.

The general duty has three aims. It requires public authorities when exercising their functions and people exercising a public function in relation to that function to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by the Equality Act 2010
- advance equality of opportunity between people who share a protected characteristic and those who do not
- foster good relations between people who share a protected characteristic and those who do not.

The specific duties in England require local authorities to publish sufficient information to demonstrate compliance with the aims of the general equality duty no later than 31 January 2012 and at least annually thereafter and to publish one or more equality objectives by 6th April 2012 and then to revise and publish these at least every four years.

## 7.7 Am I protected from discrimination because of my relationship with my disabled child?

You are protected from direct discrimination (and [harassment](#)) if you are treated less favourably than others because of your association with your disabled child by, for example, your child's service provider, education provider or your employer. This is known as 'discrimination by association', as referred to above.

# 8. Complaints: summary of potential remedies

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This section provides a general overview on how you can make a complaint in relation to the services received from, or decisions made by, local authority children social care services. The Resources section provides details on where to obtain further information and assistance.

## 8.1 Can I make a complaint if I am not happy with aspects of my child's care?

If you are concerned about any aspect of your child's care you have the right to complain. Such concerns might relate to the manner in which services are provided, the level of services offered to your child or your family, or a decision not to provide a particular (or any) service or not to respond to a request for an assessment of your child's needs or a failure to assess your needs.

## 8.2 What do I need to think about when deciding on whether, and how, to pursue a complaint?

The various complaints procedures that might be available to you are listed below. In addition you may find it helpful to consider informal routes to raise your concerns. Often the most effective way of resolving such disputes will be through informal contacts with representatives of the relevant local authority. Involving your local MP, local councillor or even the local media, may add weight to your arguments. In general, it is important to make complaints without delay (and if court proceedings are contemplated, these may need to be made very quickly indeed – in which case expert advice needs to be taken urgently).

The best course of action to take is likely to depend on a range of factors, including the basis of your complaint and the likely costs of pursuing a particular course of action.

For example, while taking legal action by way of judicial review proceedings can lead to an early resolution, it is likely to be very expensive unless legal aid is available, and may not be appropriate if there are significant factual disputes.

## 8.3 How can I pursue my complaint?

The following complaints mechanisms may be relevant:

- **Children's social services provision:** You (as a person with parental responsibility) or your child can make a complaint to your local authority in relation to the discharge of its duties in relation to children in need and their families. The complaint should be made as soon as possible and in any event within 1 year from the time the matter complained of arose. Every local authority is required to have a special procedure for dealing with complaints about children's social care services, details of which should be available on its website.
- **Complaint to the Ombudsman:** The Local Government Ombudsman investigates complaints of 'maladministration' made against local authorities in England (for example, complaints about the way in which a service is delivered, or where it is not delivered at all) in areas relevant to social care. In most cases the complainant will be expected to have used the local authority's complaints procedure first. See the Resources section for further information.
- **Legal action:** You, on behalf of your child, can make an application to the High Court for judicial review if you consider that your local authority has acted unlawfully.

In relation to issues arising under the Equality Act 2010 (see section 7 on page 30), discrimination claims may be made in the County Court. Claims in relation to the general public sector equality duty are brought by way of judicial review in the High Court. These can be brought by individuals, interested parties and/or the Equality and Human Rights Commission; the Commission can bring enforcement action in relation to specific duties. For more information about the procedure and time limits (see the [Resources section on page 35](#)).

**Please note:** If you are considering taking legal action you should seek legal advice immediately as the time limits are often very strict and short.

# 9. Glossary

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**Care Act 2014:** the key legislation setting out the legal framework for the provision of social care for adults in England.

**Children Act 1989:** covers a wide range of areas concerning children. Part 3 of the Children Act 1989 concerns children 'in need' and their families; local authorities must safeguard and promote the welfare of those children in need living in the local authority area by providing services appropriate to their needs. So far as is consistent with their duty to safeguard and promote the welfare of children in need, local authorities must also provide services appropriate to those children's needs to promote their upbringing by their families. The definition of a 'child in need' is given below. For the purposes of this Act a child is a person under the age of 18.

**Children and Families Act 2014:** this Act contains a range of provisions, the most relevant of which for the purposes of this guide appear in Part 3. This part of the Act introduced significant reforms to the pre-existing statutory framework for identifying children and young people with special educational needs, assessing those needs, and making provision for them. The Act replaced what were previously called Statements of Special Educational Need or 'Learning Difficulty Assessments' with Education, Health and Care plans (which arise from a new integrated form of assessment, called an Education, Health and Care Assessment). The Act also introduced important provisions for the assessment of the needs of parents caring for disabled children.

**Child in need:** under the Children Act 1989 (Section 17(10)), a child is in need, for the purpose of the CA 1989 if:

- s/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 of services for him or her by a local authority; or

- his/her health or development is likely to be significantly impaired or further impaired without the provision for him or her of such services; or
- if s/he is disabled (see below for definition of disabled child).

**Child in need assessment:** an assessment by a local authority of the services and support which should be provided for any child in need in its area. A detailed description on the principles governing such assessments is provided in the statutory guidance entitled Working Together to Safeguard Children.

**Chronically Sick and Disabled Persons Act 1970 ('CSDPA 1970'):** this Act includes, among other things, the specific statutory duty on local authorities to provide social care services for disabled children. (The provisions of CSDPA 1970 which relate to adults have now been superseded by the Care Act 2014.)

**Disabled child is, for the purpose of the Children Act 1989:** '...a child who 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 that may be prescribed' (Section 17(10) Children Act 1989).

**Education, Health and Care (EHC) needs assessments/plans.** The Children and Families Act 2014 introduced a specific duty for local authorities to assess, on request, the educational, health care and social care needs of a child or young person. This is referred to in the Act as an 'EHC needs assessment'. Where such an assessment is carried out and the local authority concludes that the child/young person in question requires special educational provision, then it must prepare and maintain an 'EHC plan' for them, specifying (among other things) that child's special educational needs and the special educational provision required, as well as any associated social care / health care needs and provision.

**Eligibility criteria:** these are the criteria used by children's services and local social services authorities to assess the level of need of a person and determine whether s/he qualifies for a service. Guidance issued in England has standardised local authority eligibility criteria for community care services (thus in general, adult services) but no guidance has been issued in relation to children's services.

**Harassment under the Equality Act 2010 in a services context:** The Act prohibits three different types of harassment:

1. Harassment related to a 'relevant protected characteristic' (not pregnancy and maternity, religion or belief or sexual orientation in a services context; harassment related to pregnancy and maternity would amount to harassment related to sex, while harassment related to religion or belief or sexual orientation may amount to direct religion or belief or sexual orientation discrimination);
2. Sexual harassment, and Less favourable treatment because of submission to or rejection of sexual harassment or harassment related to sex or gender reassignment.
3. Clearly in relation to sexual harassment of a child, other legislation will be relevant including that which covers criminal behaviour.

**Human Rights Act 1998:** this Act places an obligation on public bodies such as local authorities to work in accordance with the rights set out under the European Convention on Human Rights ('ECHR'). This means that individuals working for public authorities, whether in the delivery of services to the public or devising policies and procedures, must ensure that they take the ECHR into account when carrying out their day to day work.

**Looked after child:** A child is looked after by a local authority if s/he is in their care by reason of a care order or is being provided with accommodation under section 20 of the 1989 Act for more than 24 hours with the agreement of the parents, or of the child if s/he is aged 16 or over (section 22(1) and (2) of the 1989 Act).

**Local authority children's social care services:** this term is used to describe the department of the local authority that is responsible for the provision of services to children in need (including disabled children). In England, the authorities divide the responsibility for the provision of social care to disabled people between a children's services directorate and an adult social services department.

**Mental Capacity Act 2005:** The MCA 2005 provides the legal framework for making decisions on behalf of individuals aged 16 or over who lack capacity to make such decisions for themselves. Anything done for, and any decision made on behalf of, a person without capacity should be done or made in the 'best interests' of that person. For individuals aged 16 and over who lack capacity to make decisions for themselves, the Mental Capacity Act 2005 provides that 'acts in connection' with the person's care and treatment can be taken in the person's 'best interests'. In order to determine what might be in the person's best interests those involved in caring for the person (such as the parents) should be consulted. For further information see: <http://webarchive.nationalarchives.gov.uk/+http://www.justice.gov.uk/docs/mca-cp.pdf>

**Non-statutory guidance:** practical guidance aimed at helping people understand their rights and obligations under the relevant Act. Although it has no legal standing, it is something to which the local authority must have regard when carrying out their functions, and if they intend not to follow the guidance, they will have to be able to provide good reasons for so deciding.

**Parent carers' needs assessments (PCNAs):** These were introduced by the Children and Families Act 2014. The legislation provides that wherever it appears to a local authority that a parent carer in its area may have needs for support, or the authority receive a request from the parent carer, it must carry out an assessment of those needs (provided that the child and his or her family are eligible in principle for support under section 17 of the Children Act 1989). In this context, a "parent carer" is a person aged 18 or over who provides

care for a disabled child for whom that person has parental responsibility. It therefore covers not only biological parents but also (for example) guardians. Having carried out a PCNA, the local authority must consider the results and decide whether it is necessary to provide support for the parent carer along with any support for his or her disabled child.

**Parental responsibility:** This is a term defined in section 3 of the Children Act 1989 as 'the rights, duties, powers, responsibilities and authority which by law a parent has in relation to a child and his property'. Those working with children will need to ascertain who has 'parental responsibility'. This will be particularly important when the child is not able to make decisions about his or her care or treatment as in those circumstances a person with parental responsibility may be able to make that decision on behalf of the child.

Usually both parents will have parental responsibility, but unmarried fathers will need to take steps to acquire parental responsibility. In some cases, parental responsibility may be shared with others, for example when the child or young person is subject to a care order the local authority will share parental responsibility with the parents (if both have parental responsibility).

**Section 7 Guidance:** This refers to guidance that has been issued under section 7 of the Local Authority Social Services Act 1970. This section requires local authorities in exercising their social services functions to act under the general guidance of the Secretary of State; unless there are exceptional reasons in individual cases, authorities are expected to comply with this guidance.

**Special Educational Needs and Disability (SEND) Code of Practice:** detailed statutory guidance (published jointly by the Department for Education and the Department of Health) on the duties, policies and procedures relating to Part 3 of the Children and Families Act 2014. Local authorities must have regard to this Code of Practice when taking relevant decisions in relation to children and young people. See Resources section.

**Statutory guidance:** guidance that has been approved by the Secretary of State and laid before Parliament. It is not an authoritative statement of the law. However, it can be used as evidence in court or tribunal proceedings connected with the relevant legislation and the court / tribunal must take into account any part of the guidance it considers relevant when determining the questions arising.

**Victimisation under the Equality Act 2010 in a services context:** If a service provider subjects a service user or a person seeking to access a service to a detriment because they have carried out or the service provider believes they have or may carry out a 'protected act' this amounts to victimisation of the service user or the person seeking to access the service.

A 'protected act' is:

- Bringing proceedings under the Equality Act 2010 (the Act)
- Giving evidence or information in connection with proceedings brought under the Act
- Doing anything else for the purposes of or in connection with the Act
- Making an express or implicit allegation that another person has done something in breach of the Act (whether or not an allegation is later dropped).

**Working Together to Safeguard Children:** detailed statutory guidance on the statutory requirements and expectations for providers of children's services in relation to the promotion and safeguarding of children's welfare, including guidance on the duty of local authorities to carry out child in need assessments. Local authorities and other organisations which commission and provide services for children are required to have regard to the guidance when taking relevant decisions in relation to children ([see Resources section on page 35](#)).

# 10. Resources

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## Useful Organisations

### Carers UK

A charity set up to help people who care for family or friends. Its work includes providing information and advice about caring: <http://www.carersuk.org>

### Citizens Advice Bureau

A source of advice and support if you want to complain about social services or local authorities: <https://www.citizensadvice.org.uk>

### Contact a Family

Provides support, information and advice to families of disabled children: <http://www.cafamily.org.uk>

### Equality and Human Rights Commission (EHRC)

Its role is to promote and monitor human rights; and to protect, enforce and promote equality across the nine 'protected characteristics' under the Equality Act 2010—age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation: <http://www.equalityhumanrights.com>

### Local Government Ombudsman

Looks at complaints about councils (local authorities) and some other authorities and organisations, including education admissions appeal panels and adult social care providers (such as care homes and home care providers). It is a free service: <http://www.lgo.org.uk>

### Public Law Project (PLP)

An independent, national legal charity which aims to improve access to public law remedies for those whose access is restricted by poverty, discrimination or other similar barriers. Its website includes a guide to making a complaint. <http://www.publiclawproject.org.uk>

## Further information and guidance

For information on other topics such as education, please refer to the Parent Guides available on our website: <http://w3.cerebra.org.uk>

## Assessments for children in need

Department for Education, Working together to safeguard children: A guide to inter-agency working to safeguard and promote the welfare of children (March 2015): <https://www.gov.uk/government/publications/working-together-to-safeguard-children—2>

Office of the Children's Rights Director, Young Person's Guide to Working Together to Safeguard Children, April 2014: <https://www.childrenscommissioner.gov.uk/publication/working-together-to-safeguard-children/>

## Care planning for looked after children and care leavers

A range of information, including the Children Act 1989 Guidance and Regulations Volume 2: Care Planning, Placement and Case Review (June 2015) and Volume 3 Planning transition to adulthood for care leavers (January 2015) is available at: <https://www.childrenscommissioner.gov.uk/publication/working-together-to-safeguard-children/>

## Complaints

Local Government Ombudsman (LGO): <http://www.lgo.org.uk>

LGO's factsheet on complaints about children's care services: <http://www.lgo.org.uk/make-a-complaint/fact-sheets/social-care/children-s-care-services>

Information provided by the Home Office on the process for complaints under the Equality Act 2010: <https://www.gov.uk/guidance/equality-act-2010-guidance>

Information is also available on the EHRC's website: <http://www.equalityhumanrights.com/complaint-policy-and-procedure>

## Education, Health and Care Assessments

Department of Education, Special Educational Needs and Disability Code of Practice: 0 to 25 years, January 2015: <https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

## Equality Act 2010 and social care services

Equality and Human Rights Commission, Services, Public functions and Associations: Statutory Code of Practice: <https://www.equalityhumanrights.com/en/publication-download/services-public-functions-and-associations-statutory-code-practice>

Additional guidance on the Equality Act 2010: [https://www.equalityhumanrights.com/sites/default/files/supplement\\_to\\_the\\_services\\_cofp.pdf](https://www.equalityhumanrights.com/sites/default/files/supplement_to_the_services_cofp.pdf)

Office for Disability Issues, Equality Act 2010: Guidance on matters to be taken into account in determining questions relating to the definition of disability (2011) <https://www.gov.uk/government/publications/disability-equality-act-2010-guidance-on-matters-to-be-taken-into-account-in-determining-questions-relating-to-the-definition-of-disability>

Equality and Human Rights Commission, Technical guidance on the Public Sector Equality Duty

<http://www.equalityhumanrights.com/publication/technical-guidance-public-sector-equality-duty-england>

## Legal references

Steve Broach, Luke Clements, and Janet Read, Disabled Children: A Legal Handbook, LAG & Council for Disabled Children, 2010 (a new edition is due for publication in 2015). Available online at: <http://www.councilfordisabledchildren.org.uk/resources/disabled-children-a-legal-handbook>

Luke Clements and Pauline Thompson, Community Care and the Law, LAG, 5th Edition, 2011

## National Service Frameworks for Children

Department of Health, National Service Framework for Children, Young People and Maternity Services: Standard 8: Disabled children and young people and those with complex health needs (2004): <https://www.gov.uk/government/publications/national-service-framework-children-young-people-and-maternity-services>

## Parent Carers' Needs Assessments

Carers UK's factsheet on Assessments and the Care Act (page 17)

<http://www.carersuk.org/help-and-advice/practical-support/getting-care-and-support/young-carers-and-carers-of-children-under-18>

## Short term breaks

Department for Education, Short breaks for carers of disabled children: Departmental advice for local authorities (March 2011)

<https://www.gov.uk/apply-short-term-care-for-child>

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Camilla provides training and consultancy services on human rights and equality, and other areas of law and policy relevant to education, health and social care.

Camilla specialises in mental health, disability and human rights law and policy and has written, presented and trained extensively on issues relevant to these areas, for specialist and non-specialist audiences, both nationally and internationally.

She is a member of the Law Society's Mental Health and Disability Committee and an LLM tutor at Cardiff Law School. She was a member of an NHS Trust Board (non-executive Director, then Special Adviser) 2000-2006 and a Mental Health Act Commissioner 1995-2000.

Camilla has a particular interest in the human rights of young people in need of mental health care, which is the subject of her (part-time) doctoral research at Cardiff Law School.

## Luke Clements

Luke is a professor at Leeds Law School and a solicitor. He is a leading expert on community care law. He has drafted and assisted in the parliamentary passage of a number of Private Members bills. He has provided training for many Local Authorities, national organisations and charitable bodies.

His books include: Community Care and the Law (Legal Action Group 5th ed 2011—jointly written with Pauline Thompson), Disabled Children: a legal handbook (Legal Action Group 2010—jointly written with Stephen Broach and Janet Read) and Carers and their Rights (Carers UK 4th ed 2010).

## Jo Honigmann

Jo specialises in discrimination, disability and education law and policy. Having practised as a solicitor for several years, both in private practice and the not for profit sector, Jo has been working as a legal and policy consultant since 2008.

Projects have included drafting Equality Act 2010 education guidance as part of a small consortium for the Equality and Human Rights Commission and training for the NHS. During her career, Jo has also been responsible for a university's policy and provision for its disabled students.

She has written, trained and presented on education and discrimination law and policy to a wide range of specialist audiences. Jo is a former Chair of the Law Society's Mental Health and Disability Committee and was a member of the Committee from 2003 to 2013. She has an MSc in Disability Management in Work and Rehabilitation.

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All three authored Transitions in Mental Health Care: A guide for health and social care professionals on the legal framework for the care, treatment and support of young people with emotional and psychological problems during their transition years, YoungMinds (in association with National Mental Health Development Unit and National CAMHS support service) <https://youngminds.org.uk/media/1706/transitions-guide-for-professionals-email-version.pdf>.

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