

Mythbuster

Disability England

This factsheet busts five myths around disability services support in England. We also have a series of guides and factsheets to help families of children with brain

conditions with common problems they may be facing. Covering a range of legal, social and financial issues, these are available at <https://cerebra.org.uk/get-advice-support/legal-and-financial/>



1. Myth: you're a parent carer but you don't have a right to a separate carer's assessment

Yes, you do! Your local authority has a duty to assess whether you, as a parent carer, have needs for support¹ and, if so, what those needs are. This duty comes into play as soon as it appears to your local authority that you may need support or if you request an assessment². This is known as a 'parent carer's needs assessment' (PCNA), and can be carried out at the same time as an assessment of your child's own needs. Your 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, for instance, whether you want to work or take part in any education, training or recreation activities.³ When carrying out your PCNA, your local authority must have regard to both your own well-being and the need to safeguard and promote the welfare of both your disabled child, and any other child for whom you have parental responsibility.

2. Myth: your child's care package or your carer's support package can be reduced, or even withdrawn, without a reassessment.

No, it can't! Your local authority must keep the care needs of disabled children and their families under review and both care plans and carer's support plans typically specify a review date of

twelve months. However, if there are significant changes in your family's circumstances a reassessment should be carried out without delay.

Importantly, the Local Government and Social Care Ombudsman has ruled that once support needs have been decided and put into place by a local authority then that level of service should continue until a reassessment has been carried out⁴. If a review identifies that your child's care needs, or your support needs, have changed your local authority will have to decide whether it needs to make changes to the care and/or support packages. Statutory guidance says that "where the local authority is satisfied that a revision (of the care or support plan) is necessary, it must work through the assessment and care planning processes...to the extent that it thinks appropriate". In any event, "a review must not be used as a mechanism to arbitrarily reduce" the level of a person's support⁵.

References:

1. Introduced by the Children and Families Act 2014 and now appearing in section 17ZD of the Children Act 1989.
2. See 'Working Together to Safeguard Children: A guide to interagency working to safeguard and promote the welfare of children', Paragraph 29 on Page 21.
3. Please see Paragraph 31 on Page 64 of above guide.
4. Complaint no 11/010/725 against London Borough of Lambeth, 16 August 2012.
5. Department of Health and Social Care, Care and Support Statutory Guidance, 2014, paragraphs 13.4 and 13.8.

3. Myth: you can't get a Disability Facility Grant (DFG) for your child because you live in a rented property.

Wrong! She is eligible for a DFG if your home is your main residence whether you own it or rent it. However, if you are renting your landlord will have to agree to having the work done. If you have a private landlord the local authority will need to get their consent and offer to 'make good' the adaptations should you move in the future⁶.

4. We've asked for a Disability Facility Grant (DFG) to provide an extra bedroom for our disabled child but the LA won't process our application. It says it's an overcrowding issue and we need to make a rehousing application.

Not true! If you make an application for a DFG it must be assessed according to the relevant legislation⁷ and not the local authority's housing allocation policy. An overcrowding issue can't override the LA's duty to assess a DFG application. The LA is firstly required to decide if the requested adaptations are 'necessary and appropriate' to meet the person's disability-related needs. If it decides that this is the case it must then decide whether it is 'reasonable and practical' to carry out the work required given the age of the property and whether there are any structural problems.

However, it may be that because of the condition of the property it simply isn't possible to make the adaptations cost effectively. In which case, there may be no option other than to consider moving elsewhere. But even then the relevant guidance⁸ says that *the needs of the disabled person, their carers and family should be considered so as to ensure that the outcome does not create difficulties, for example, with schooling and potential interruption of support networks.*

5. Myth: there's a maximum number of hours you can get for short breaks or direct payments.

No there isn't! In the case of both direct payments and short breaks your local authority must assess the level of support required to meet the person or family's needs. This level of support must be enough to meet the identified needs and there is no upper limit on this amount. It follows that your local authority can't set an arbitrary 'maximum' limit. In addition, it must respect the public law principle – it must act reasonably and it must be prepared to act flexibly having regard to a person's individual needs. Adopting a rigid policy that limits the number of hours of support that it was willing to provide would breach these public law obligations.

References:

6. See Disabled Children: A Legal Handbook, Paragraphs 6.58 and 6.59.
7. Housing Grants, Construction and Regeneration Act 1996, Section 24
8. Home Adaptations Consortium, Home Adaptations for Disabled People: A detailed guide to related legislation, guidance and good practice (2013), page 101.

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