



LOCAL AUTHORITY RESPONSIBILITIES TO PROVIDE SHORT BREAKS

‘Short breaks’ is a term to describe services that are designed to support parent carers to be able to care for their disabled children better, or to do so more effectively. It also describes services which support disabled children to enjoy different experiences, develop new skills and help them to achieve their ambitions in life.

WHAT ARE SHORT BREAKS?

Local authorities have a range of legal duties to provide breaks for carers and disabled children, called ‘short breaks’ and make it clear how families with disabled children can access these. Short breaks come in a variety of formats. Each one can last from just a few hours to a few days, and occasionally longer, depending on the type of provision and the needs of your child and family.

DEFINITION OF ‘DISABLED CHILDREN’

The Children Act 1989, section 17 (10) defines disabled children as ‘children in need’ who are under 18 years of age and:

‘unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by the local authority’, or whose ‘health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services’ by a local authority, or ‘are disabled.’

Section 17 (11) of the Children Act 1989 states that a child is disabled if they are:

‘blind, deaf or dumb or suffers from mental disorder of any kind’, or are ‘substantially and permanently handicapped by illness, injury or congenital deformity, or other such disability as may be prescribed.’

The Equality Act 2010 goes on to define disability as:

‘a physical or mental impairment’, which has a ‘substantial and long-term adverse effect’ on the ability to carry out normal day-to-day activities.

The law requires local authorities to ‘safeguard and promote the welfare’ of children in need, and as far as is consistent with this, to ‘promote the upbringing of these children by their families’. This duty is to be met through

the provision of a range and level of services that are appropriate to those children’s needs (Children Act 1989, Section 17 (1)).

Services should be designed to:

- **minimise the effect on disabled children within their area of their disabilities**
- **give such children the opportunity to lead lives which are as normal as possible, and**
- **assist individuals who provide care for such children to continue to do so, or to do so more effectively, by giving them breaks from caring (Children Act 1989, schedule 2, paragraph 6).**

PROVIDING INFORMATION FOR FAMILIES

Local authorities are required to identify all children and young people with special educational needs and disabilities (SEND) who live within their area.

They are also required to:

- **‘open and maintain’ a register of disabled children**
- **publish information about services they provide, and**
- **take reasonably practicable steps to ensure that those who might benefit from these services receive the information relevant to them (Children Act 1989, schedule 2, part 1, para 1, 2; Children and Families Act 2014, part 3, section 22).**

THE SHORT BREAKS DUTY

Short breaks should be designed to:

- **support the needs of all families**
- **be personalised to their views, wishes and feelings**
- **achieve positive outcomes.**

The Breaks for Carers of Disabled Children Regulations 2011 sets out the requirements that local authorities must meet in accord with their legal duty to provide 'breaks from caring' to parent carers of disabled children.

THE NEEDS OF PARENT CARERS

Local authorities must 'have regard' to the needs of parent carers who are 'unable' to continue caring for their child, meaning those who are at, or near, breaking point.

Short breaks should also be available to support parent carers to care for their child 'more effectively' to enable them to:

- **undertake education, training or any regular leisure activity**
- **meet the needs of other children in the family more effectively, or**
- **carry out day to day tasks which they must perform in order to run their household.**

WHAT TYPE OF SHORT BREAKS?

Local authorities are required to:

'provide, so far as is reasonably practicable, a range of [short break] services which is sufficient to assist carers to continue to provide care or to do so more effectively'

This must include:

- **day-time and overnight care in the home or elsewhere**
- **educational or leisure activities outside the home, and**
- **services available to assist carers in the evenings, at weekends and during the school holidays.**

HOW DO PARENTS FIND OUT ABOUT SHORT BREAKS?

Local authorities must publish a 'short breaks services statement' setting out:

- **details of the range of services provided**
- **any eligibility criteria and how this is assessed, and**
- **how services are 'designed to meet the needs of carers'.**

The statement must be kept under review and, where appropriate, revised. It must ensure it reflects the views of parent carers, and be published as part of the 'local offer' introduced by the Children and Families Act 2014, part 3, section 30.

Local authorities are also required to review the provision of SEND services, including short breaks, on a regular basis. This process should clearly evidence:

- **the number of children with SEND living in the area**
- **the types of need; the level and quality of available services, and**
- **the extent that the provision is 'sufficient' to meet the needs of children and young people; and to 'assist carers to continue to provide care or to do so more effectively'.**

Local Authorities will need to make good use of data sources, including Joint Strategic Needs Assessments. Additionally, local authorities have a positive duty to 'seek' and publish, at least annually, anonymised comments from children and families on:

'the content of its local offer, including the quality of the provision that is included and any provision that is not included.' (Special Educational Needs and Disability Regulations 2014, regulation 56)

Where it is apparent that range of short breaks is not considered to be 'sufficient' to meet the needs of parent carers, they are required to review and determine what positive measures can be taken to improve this (Children and Families Act 2014, section 27(2)).

 Resources to assist parent carer forums when working in co-production with statutory authorities in the development of short breaks services have been published by the Short Breaks Partnership, and are available on our website page on improving short breaks services at www.contact.org.uk/pcp/shortbreaks



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