

# Short breaks services statement

A resource to help parent carer forums  
engage with their local authority  
to co-produce short break services



## Short Breaks Partnership



Produced by Contact a Family for the Short Breaks Partnership supported by  
the National Network of Parent Carer Forums



## Introduction

This guide has been created by Contact a Family for the Short Breaks Partnership.

It gives an overview of the legal framework that local authorities must take into account when they develop and provide short breaks services.

There is also a 'self-evaluation form', which parent carer forums can use with their own local authority, to help the local authority evaluate their short breaks provision and short breaks services statement.

### **This guide aims to:**

1. identify areas of improvement for commissioning short breaks services
2. identify areas of improvement for the short breaks services statement
3. improve outcomes for local families.

A blank action plan is included at the end of the guide.

An eLearning module is also available to support this work.

### **About the Short Breaks Partnership**

The Short Breaks Partnership is a consortium of charities made up of Contact a Family, the Council for Disabled Children, Action for Children and KIDS. The consortium received grant funding from the Department for Education in 2015/16 to develop guidance on the importance of short breaks services for parent carer forums, children and young people, local authorities and commissioners and short breaks providers.

### **Contributors**

Author – Sharon Smith [sharon@sharonsmith.net](mailto:sharon@sharonsmith.net).

Sharon Smith is a Contact a Family Associate who provides training and support to parent carer forums. She was previously the Chair of Hampshire Parent Carer Network and played a major role in the co-production and re-writing of Hampshire County Council's new Short Breaks Services statement in 2013 and 2014.

Steve Broach, Barrister, Monckton Chambers

Steve provides legal advice to the Short Breaks Partnership, including in relation to the production of this guide and other resources.

National Network of Parent Carer Forums (NNPCF)

Representatives of the NNPCF have contributed their expertise to the governance of the Short Breaks Partnership Steering Group and to the development of products for Parent Carers and parent carer forums, including this guide.

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## Why local authorities provide short break services

There is compelling evidence that providing short breaks to families with disabled children results in a range of positive outcomes for both families and local authorities:

- Disabled children and young people experience **increased choices**, wider social networks and are growing in **confidence and independence**
- Parents experience **more choice and control of family life**, developing supportive peer relationships and have raised their expectations and aspirations of what their children may achieve.
- Local authorities see **less need for other interventions**, a **decrease in costly out-of-area placements** and a **fall in the number of disabled children entering the looked after system**

To read about the impact of short break services, including the cost savings to local authorities of providing them, see:

[Impact of the short break programme on the prevention of disabled children entering the looked after system](#)

*‘For some parents the provision of short breaks simply means the difference between being able to cope with their disabled child and not being able to cope.’* Centre for Disability Research, December 2009

## Disabled children as children 'in need'

All disabled children are 'in need' and so may receive services under [section 17 of the Children Act 1989](#).

The definition of 'disabled' is found in section 17(11), which includes children who:

- are blind
- deaf, or
- non-verbal, or
- suffer from a 'mental disorder of any kind', or
- are 'substantially and permanently handicapped by illness, injury or congenital deformity, or such other disability as may be prescribed'.

Children can also be 'in need' because they require services from their local authority to help them achieve or maintain a reasonable standard of health or development or because their health or development is likely to be significantly impaired without such services. However, children who are 'disabled' do not have to meet any of these requirements to be a child 'in need'.

Local authorities must carry out assessments for children 'in need', although case law suggests it will not be necessary in every case for this assessment to be carried out by a social worker. Guidance on local authority duties to carry out assessments of disabled children is available from the [Council for Disabled Children](#)

Local authorities have to provide services to children 'in need' in their area, as they have a 'general' duty to do so in accordance with [section 17\(1\) of the Children Act 1989](#). This 'general' duty also covers services for family members of children in need, see section 17(3).

However, there is no 'specific' duty to provide services to any individual child 'in need'. For disabled children this duty is found in section 2 of the Chronically Sick and Disabled Persons Act 1970 (see below).

## Overview of the legal framework for short breaks services

### Children Act 1989

[Paragraph 6\(1\) Schedule 2](#) to the Children Act 1989 (as amended) builds on the general duty to children 'in need' in section 17 by requiring local authorities:

- to minimise the effect on disabled children within their area of their disabilities
- to give such children the opportunity to lead lives which are as normal as possible, and
- to 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.

The duty in paragraph 6(1)(c) was inserted through the Children and Young Persons Act 2008 and is often referred to as the 'short breaks duty'.

To comply with the law, local authorities must not only offer short breaks to families in or near crisis, but also support families to provide more effective care for their children.

### Breaks for Carers of Disabled Children Regulations 2011

The [Breaks for Carers of Disabled Children Regulations 2011](#) require local authorities to set out a range of short break services to help parents of disabled children have time away from their caring responsibilities.

**Regulation 3** requires local authorities in discharging the short breaks duty to:

- (a) have regard to the needs of those carers who would be unable to continue to provide care unless breaks from caring were given to them; and
- (b) have regard to the needs of those carers who would be able to provide care for their disabled child more effectively if breaks from caring were given to them to allow them to—
  - (i) undertake education, training or any regular leisure activity,
  - (ii) meet the needs of other children in the family more effectively, or
  - (iii) carry out day to day tasks which they must perform in order to run their household.

**Regulation 4** imposes an important duty on local authorities to:

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

This means local authorities must understand the level of need to short breaks amongst families in their area and provide a level of service that is sufficient to meet those needs, so far as is 'reasonably practicable' for them to do so taking account of available resources. This range of services must include day-time and overnight care both inside the home and otherwise, educational or leisure activities and services available to assist carers in the evenings, at weekends and during the school holidays.

**Regulation 5** then requires local authorities to publish a ‘short breaks services statement’.

This is a vital tool for forums to use to hold local authorities to account. The statement must set out the details of:

- (a) the range of services provided in accordance with regulation 4,
- (b) any criteria by which eligibility for those services will be assessed, and
- (c) how the range of services is designed to meet the needs of carers in their area.

Additionally, the short breaks services statement must be:

- published and made available on the local authority’s website
- regularly reviewed
- form a core part of the local offer under the Children and Families Act 2014 (see below).

### **Chronically Sick and Disabled Persons Act 1970**

The [Chronically Sick and Disabled Persons Act 1970 \(CSDPA 1970\)](#) creates a right for **disabled children to receive social care services, including short breaks**, when these services are assessed to be necessary to meet their needs.

Short breaks can be provided under the CSDPA 1970 in the home or in the community – only residential overnight breaks are excluded.

When deciding whether it is necessary to meet a child’s needs the local authority can take account of its available resources, and so can operate eligibility criteria, although these have to be rational, reasonable and fair and non-discriminatory.

However, once a child is accepted to have ‘eligible’ needs, in other words needs which meet any eligibility criteria operated by the local authority, then services or direct payments **must be provided** at a level sufficient to meet those needs.

### **Children and Families Act 2014**

The [Children and Families Act 2014](#) placed new legal duties on local authorities, outlined in the [Special Educational Needs and Disabilities \(SEND\) Code of Practice](#) (January 2015). For example, local authorities must:

- exercise its functions with a view to securing that it identifies:
  - (a) all the children and young people in its area who have or may have special educational needs, and
  - (b) all the children and young people in its area who have a disability (Section 22)
- work with Clinical Commissioning Groups and other partners to set priorities and agree education, health and social care provision (Section 26)

- keep service provision under review (Section 27)
- make sure that services work together to promote children and young people's wellbeing (Section 25)
- make information, advice and support on the take-up and management of Personal Budgets available (section 49).

### **Children and Families Act - requirement to involve parents and disabled children and young people in developing short breaks services**

The [Children and Families Act 2014](#) place legal duties on local authorities and health services to ensure effective participation of children, young people and parents about decisions which affect them. The accompanying code of practice is called the [Special Educational Needs and Disability \(SEND\) Code of Practice: 0-25 years](#)

This includes decisions relating to social services, including short breaks services.

The Act and code of practice say that **local authorities must:**

- **ascertain the views, wishes and feelings** of disabled children and young people and those with special educational needs and their families.
- **involve children, young people and parents** (including local parent carer forums and youth forums) **in the design or commissioning of services** to ensure they meet local needs. They must do this in a way which ensures that children, young people and parents feel they have participated fully in the process and have a **sense of co-ownership**.

This means parent carers and young people should be involved in both the design and commissioning of short breaks services.

- **at a strategic level, they must engage children and young people with special educational needs (SEN) and disabilities, and children's parents**, in commissioning decisions, to improve services and outcomes. Commissioning decisions on services for those with SEN and disabilities must be shaped by users' experiences, ambitions and expectations.

To do this, local authorities and Clinical Commissioning Groups should engage with local Healthwatch organisations, patient representative groups, parent carer forums, groups representing young people with SEN and disabilities and other local voluntary organisations and community groups.

This means parents and young people should be involved in strategic decision making relating to short breaks.



- ensure that children, young people and parents are **provided with the information, advice and support necessary to enable them to participate** in discussions and decisions about their support. Including information on their rights and entitlements in accessible formats, sufficient time to prepare for meetings and advocacy support where this is required.

This includes the requirement to provide information, advice and support relating to short breaks services, and that support should be provided to enable effective participation in strategic decision making relating to short breaks services.

### **Children and Families Act - requirement to provide information about short breaks services to parents**

The [Children and Families Act 2014](#) states that local authorities must publish a local offer (section 30). The short breaks services statement must form a core part of the local offer. Local authorities are required to consult with children, young people and parents in preparing and reviewing their local offer (regulation 55 of the [SEN and Disability Regulations 2014](#)).

The local offer, and therefore the short breaks services statement which is part of the local offer, must follow the principles set out in section 4.7 of the [Special Educational Needs and Disabilities \(SEND\) Code of Practice](#). It should be:

- **collaborative**  
local authorities must involve parents, children and young people in developing and reviewing the local offer. They must also co-operate with those providing services
- **accessible**  
the local offer should be easy to understand, factual and jargon free. It should be structured in a way that relates to young people's and parents' needs (for example by broad age group or type of special educational provision). It should be well signposted and well publicised
- **comprehensive**  
parents and young people should know what support is expected to be available across education, health and social care from age 0 to 25 and how to access it. The local offer must include eligibility criteria for services and make it clear where to go for information, advice and support, as well as how to make complaints about provision or appeal against decisions
- **up to date**
- **transparent**  
it should be clear about how decisions are made and who is accountable and responsible for them.

## **Children and Families Act – requirement to undertake a social care assessment**

Where an **Education, Health, Care (EHC) needs assessment** takes place under the Children and Families Act 2014, it should be a **holistic assessment** of the child or young person's education, health and social care needs. An EHC needs assessment should therefore trigger a social care assessment if one has not been completed recently or at all.

Paragraph 10.18 of the SEND Code of Practice states that EHC needs assessments should be combined with social care assessments under Section 17 of the Children Act 1989 where appropriate.

Where a child or young person has been assessed as having social care needs in relation to their SEN or disabilities social care teams:

- **must secure social care provision under the Chronically Sick and Disabled Persons Act (CSDPA) 1970** which has been assessed as being necessary to support a child or young person's SEN and which is specified in their EHC plan
- must undertake reviews of children and young people with EHC plans where there are social care needs

Section H(1) of an EHC Plan should include any social care provision which must be made for a child or young person under 18 resulting from section 2 of the Chronically Sick and Disabled Persons Act 1970 (CSDPA). This:

- should be detailed, specific and quantified
- should be clear how it supports agreed outcomes
- **must** specify all services assessed as being needed for a disabled child or young person under 18, under section 2 of the CSDPA.

Short breaks being provided under the Chronically Sick and Disabled Persons Act (CSDPA) 1970 therefore should be included within Section H(1) of an EHC plan.

## **Children and Families Act – requirement to assess the needs of parent carers of children under the age of 18**

It is expected under the Children Act 1989 that an assessment of a child 'in need' under section 17, will be 'holistic', ie it will take into account of the needs of other family members.

However, parent carers have specific new rights to a Parent Carer's Needs Assessment (PCNA) which may lead to additional support provided under section 17 of the Children Act 1989 in their caring role. A PCNA must be carried out if a parent carer requests it, or because a local authority thinks a parent carer has needs for support.

Where requested, the local authority must assess whether that parent has needs for support and, if so, what those needs are. The assessment must include an assessment of whether it is appropriate for the parent to provide, or continue to provide, care for the disabled child, in the light of the parent's needs for support, other needs and wishes.

The assessment must also have regard to:

- the well-being of the parent carer; and
- the need to safeguard / promote the welfare of the disabled child and any other child for whom the parent carer has parental responsibility.

Following the PCNA, the local authority must then decide whether the parent has needs for support; whether the disabled child has needs for support; and if so what support to provide. This package of support may include short breaks.

### **Other laws to be taken into consideration**

#### **Care Act 2014**

The [Care Act 2014](#) requires local authorities to ensure co-operation between children's and adults' services to promote the integration of care and support with health services, so that young adults are not left without care and support as they make the transition from children's to adult social care. Local authorities must ensure the availability of preventative services for adults, a diverse range of high quality local care and support services and information and advice on how adults can access this universal support.

The Care Act imposes duties on local authorities to carry out assessments for disabled children and their parent carers in transition to adulthood. The purpose of these assessments is to ensure that there is a clear understanding of whether the child and their parent will be eligible for support once the child turns 18. Parent carers of disabled adults over 18 have a right to support in their caring role if their needs meet the national eligibility criteria. Disabled young adults also have a right to have their needs met which meet the eligibility criteria, including through the provision of short break services.

There are also important duties under both the Care Act and the Children and Families Act which require local authorities to continue providing children's services until such time as the full Care Act transition process has been completed – so there should be no 'cliff edge' between children and adult's social care.

#### **Equality Act 2010**

Under the Public Sector Equality Duty (PSED) in section 149 of the Equality Act 2010, public bodies (including local authorities and CCGs) must have due regard to the need to:

- eliminate discrimination
- promote equality of opportunity, and

- foster good relations between disabled and non-disabled children and young people when carrying out their functions. The PSED is therefore directly relevant to decisions local authorities and CCGs take on the planning and commissioning of short breaks, including the funding they allocate to these services. For example, in setting its budget for short break services a local authority must have due regard to the need to promote equality of opportunity for disabled children compared with their non-disabled peers.

The Equality Act also imposes requirements on a wide range of service providers (including private companies and charities) not to discriminate in the way their services are provided. This includes a duty to make 'reasonable adjustments' to make their services more accessible to disabled people. These duties apply to providers of short break services – and to the bodies which commission them, i.e. local authorities and CCGs.

### **United Nations Convention on the Rights of Persons with Disabilities**

Article 7 of the [United Nations Convention on the Rights of Persons with Disabilities](#) requires the state to 'take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children'.

It also includes principles around best interests and participation that are found in the United Nations Convention on the Rights of the Child (see below) in relation to all children.

### **United Nations Convention on the Rights of the Child (UNCRC)**

Articles in the [United Nations Convention on the Rights of the Child](#) of particular relevance to disabled children include:

- Article 2 non-discrimination
- Article 3 the best interests of the child to be a primary consideration
- Article 4 States to use the 'maximum extent' of available resources to realise children's economic, social and cultural rights
- Article 12 the right to participation
- Article 24 the right to the 'highest attainable standard of health'.

Article 23 of the UNCRC relates specifically to disabled children. It requires states to recognise that disabled children should enjoy 'full and decent' lives. It further recognises the right of disabled children to 'special care'. Such support is to be provided to disabled children free of charge where possible, subject to resources. The aim of such support should be to allow every child to achieve 'the fullest possible social integration and individual development'.

## Co-production – working with parent carers and children/young people to shape short break services

### What the law says

The Breaks for Carers of Disabled Children Regulations 2011 states:

- a local authority must provide, so far as is reasonably practicable, a range of services which is sufficient to assist carers to continue to provide care or to do so more effectively.
- in preparing and revising their statement, the local authority must have regard to the views of carers in their area.

Children and Families Act: General Principles (Section 19)

A local authority must have regard to the following matters:

- a) the views, wishes and feelings of the child and his or her parent, or the young person;
- b) the importance of the child and his or her parent, or the young person, participating as fully as possible in decisions relating to the exercise of the function concerned;
- c) the importance of the child and his or her parent, or the young person, being provided with the information and support necessary to enable participation in those decisions;
- d) the need to support the child and his or her parent, or the young person, in order to facilitate the development of the child or young person and to help him or her achieve the best possible educational and other outcomes.

SEND Code of Practice: 'The Principles in Practice' (1.4)

Local authorities must:

- consult children with SEN or disabilities, and their parents and young people with SEN or disabilities when reviewing local SEN and social care provision
- consult them in developing and reviewing their local offer
- make arrangements for providing children with SEN or disabilities, and their parents, and young people with SEN or disabilities with advice and information about matters relating to SEN and disability

Co-production with parent carers and disabled children and young people or those with additional needs is an **underlying principle** of the Children and Families Act 2014.

Local authorities also have a legal duty to consult with parent carers when developing their short breaks provision and services statement.

Developing participation and co-production is not easy. It often involves a big commitment and often a huge culture change for professionals at all levels. It makes huge demands on everyone's skills, time, energy and enthusiasm... but **the rewards are worth it**. When families and professionals work together, recognising each other's expert knowledge, informed decisions are made which make the best use of people's time and money.

**Effective co-production happens when parents and children/young people work in partnership with professionals, in order to design, develop and improve services.** This means that families receive services which meet their needs, and professionals do not commission services that families do not want or value, resulting in less complaints and wasted resources.

Co-production **benefits everyone:**

- working with families helps professionals to understand what needs to happen to develop services that meet families' needs
- working with professionals helps families to understand the complexities involved and the challenges faced by the professionals who have to bring about changes to services
- working together and sharing knowledge enables families and professionals to find creative solutions that work.

### **Hard to reach families**

It is important that **all families have an opportunity to have their voices heard**. Some groups are particularly 'hard to reach', for example parents:

- who do not speak or read English and/or are isolated
- whose children are 'under the radar' because their children have moderate disabilities and are in mainstream settings
- who have children with mental health problems
- who move round a lot and/or are in temporary accommodation working parents
- who live in geographically isolated areas
- with low levels of literacy and/or learning disabilities
- who have become disillusioned or have disengaged from services.

Many parent carer forums are developing strategies to work with hard to reach families to ensure that they are fully representative. It is important for you to understand if your parent

carer forum is able to speak on behalf of a wide range of parents, and whether the voices of the groups listed above are included when your short breaks provision is being developed.

If the local forum has not yet developed their representation of hard to reach families, alternative methods will be required to ensure that these groups are able to input to the development of short breaks.

For ideas of how to involve young people in planning see the [‘Making ourselves heard’](#) project from Council for Disabled Children

See Appendix One for Top tips for parent carer forums and local authorities to achieve effective co-production and participation

### ***Co-production: in brief***

*Co-production happens when all team members together agree outcomes, co-produce recommendations, plans, actions and materials as a collective. It is an approach which builds upon meaningful participation and assumes effective consultation and information sharing.*

*In its essence, co-production is a dynamic group process and happens in the room when there is equal value for each participant’s contribution and when there is a meaningful proportion of participants who are service users present.*

*Parent carers are not there just to illustrate the experiences of services users but rather to take responsibility to help shape future experiences and be an active part of delivering the solutions*

## Local authority short breaks - area self-evaluation form

### How to fill in the form

We have provided information about:

- the legal framework and duties placed on a local authority
- guidance and examples
- case studies

in each section of this Self Evaluation Form.

The aim is help you evaluate how well you are meeting your legal duties and best practice guidelines. Each section stands alone, and we recommend you complete all six in order.

Use the criteria in column one to answer the questions on how well you have achieved it in relation to your short breaks provision and services statement. To support your answers, give your rationale and details of any evidence available to support your answer in the comments box.

There are six sections, as follows:

- understanding local area/needs
- involving stakeholders
- improving outcomes
- determining provision & eligibility
- preparing the services statement
- ongoing review & evaluation.

Once you have completed the full set of questions within all relevant sections, review your answers with all stakeholders, and complete the Action Plan. The Action Plan should identify the following:

- actions that will help improve your short breaks provision and services statement going forward
- the target completion date for each action
- who will be responsible for completing of action, and what other resources/stakeholder involvement will be required.



## Section 1 – Understanding local area needs

### What the law says

#### **The Breaks for Carers of Disabled Children Regulations 2011**

A local authority must provide, so far as is reasonably practicable, a range of services which is sufficient to assist carers to continue to provide care or to do so more effectively. (See also paragraph 6(1)(c) of Schedule 2 to the Children Act 1989)

To meet this legal duty, local authorities need:

- a detailed knowledge of how many families with disabled children are in their area (including ages, locations and disability types).
- a thorough understanding of parent carers' needs for a break from their caring responsibilities.

In addition, local authorities need to know:

- what services and activities are available locally
- how accessible they are for local families
- how well they are used, and
- whether they offer value for money.

Local authorities can only assess whether their services are sufficient to meet the needs of local parent carers when they have collated this information.

A full analysis of the data will enable the local authority to:

- identify services that are not being used
- identify services that offer poor value for money
- identify gaps in services in terms of location, specific age groups or disability types
- understand the impact that short breaks services have on helping families with their everyday lives and how well carers are able to continue to provide care
- understand which families are not accessing short breaks services and why they are not.

Short breaks can reduce the number of families moving into crisis, where they would need to access more expensive support and interventions. They also provide children and young people with fun activities that offer other benefits such as developing friendships, confidence and independence.

Parent carers and children/young people should be involved in identifying what information the local authority needs to know to assess local needs and short breaks provision. They

should also be involved in identifying gaps and priority areas for future development of services. This is clear from section 19(b) and (c) of the Children and Families Act 2014.

Section 27(3) of the Children and Families Act requires local authorities to consult with children, young people and parents when reviewing social care provision and considering sufficiency.

Regulation 5 of the Breaks for Carers of Disabled Children Regulations 2011 specifically requires local authorities to have regard to the views of carers in revising their services statement, which must set out the details of the range of services provided under regulation 4.

*“The sufficiency duty in Regulation 4 is very important. In order for a local authority to comply with this duty it must know (a) the population of disabled children in its area and the level of need in that population and (b) the level of service currently available to meet that need. The local authority must then exercise its judgment informed by this evidence as to whether the range of services is ‘sufficient to assist carers to continue to provide care or to do so more effectively’.”*

Steve Broach, Barrister

## Section 1 Checklist

Factors to consider/criteria to mark level of development	How well is your service/statement developed, based on the suggested criteria? (Tick one)			Evidence available to support grading	Further comments	Next steps/Ideas to go into Action Plan
	Not well developed	In development	Well developed			
A comprehensive assessment of local needs has been undertaken. In particular, to identify the following:						
the number of disabled children and young people in the local area						
breakdown by age						
breakdown by type/severity of disability						

demand for a break from caring to enable carers to continue to be effective in their role						
local trends						
<p>A range of data has been used to inform assessment of local needs eg</p> <ul style="list-style-type: none"> <li>- disabled children's register</li> <li>- consultations</li> <li>- JSNA</li> <li>- demographic data including forward trends</li> <li>- reach data</li> <li>- attendance levels</li> <li>- local offer feedback</li> <li>- performance data i.e. waiting lists, referrals levels of satisfaction etc.</li> </ul>						

A full review of existing short breaks provision has been undertaken, including:						
detailed analysis of existing services that are available						
eligibility/who can access existing services						
take up of existing services/attendance data						
satisfaction with existing services (parent carers and children/young people)						
value for money						
what difference short breaks are making to families' lives						
how outcomes are being improved for children and young people						
how many families are accessing a short break (%/age)						

reasons/barriers for eligible families who are not accessing short breaks						
when families are accessing short breaks, eg evening, weekend, school holidays						
reasons for families accessing short breaks						
whether there are specific gaps in service availability across: <ul style="list-style-type: none"> <li>a. age groups</li> <li>b. disability types</li> <li>c. locations/areas</li> </ul>						
how well children and young people are able to access mainstream activities in the local area						
what are the barriers to accessing mainstream activities?						
feedback from short breaks providers						
feedback from mainstream activity providers						

feedback from local offer						
complaints						
A comprehensive analysis of need vs available provision has been undertaken to assess sufficiency of short breaks						
There is a high level of understanding as to what extent existing short breaks services meet the needs of disabled children and young people and their families locally						
Gaps in provision and priority areas for development have been identified						
The assessment of sufficiency looks ahead and does not just focus on current services /need, in order to identify future needs and gaps in services						

<p>The analysis of need and assessment of priority areas have been fed into joint commissioning discussions between the local authority and health partners</p>						
<p>Council members and the Health &amp; Wellbeing Board are aware of the priority areas identified and are brought into the action plan proposed</p>						
<p>A range of stakeholders have been involved in the needs analysis process, including parent carers and children/young people</p>						



## Section 2 – Involving stakeholders

### What the law says

#### **The Breaks for Carers of Disabled Children Regulations 2011**

In preparing and revising their statement, the local authority must have regard to the views of carers in their area.

#### **SEN Code of Practice 2015**

- 1.3 Local authorities must ensure that children, their parents and young people are involved in discussions and decisions about their individual support and about local provision
- 1.4 Local authorities must consult children with SEN or disabilities, and their parents and young people with SEN or disabilities when reviewing local SEN and social care provision
- 1.10 Local authorities should consider whether some young people may require support in expressing their views, including whether they may need support from an advocate (who could be a family member or a professional). Local authorities must not use the views of parents as a proxy for young people's views. Young people will have their own perspective and local authorities should have arrangements in place to engage with them directly.

#### **Articles 12 and 13 of the United Nations Convention on the Rights of the Child**

Children have a right to receive and impart information, to express an opinion and to have that opinion taken into account in any matters affecting them from the early years. Their views should be given due weight according to their age, maturity and capability.

Parent carers and disabled children and young people should be involved at all stages of the development of short breaks services:

- assessing whether short breaks are sufficient
- identifying gaps in services
- agreeing priority areas
- commissioning of short breaks services
- production of the short breaks services statement
- monitoring and evaluating the effectiveness of short breaks provision
- ongoing review of the short breaks services statement.

Parent carer forums can play a valuable role as they will have a detailed knowledge of local needs and services, having secured feedback from local families. Parent representatives often have a range of valuable skills from their own work backgrounds, for example research, marketing/communications or data analysis.

It is important to check that the parent carer forum has links with 'hard to reach' families, as these voices are often missing from service design, development and review. As well as working with the parent carer forum, use a wide range of consultation methods to ensure as many parent carers and disabled children and young people can feedback their experiences and contribute their thoughts and ideas. This can include:

- events
- surveys
- use of social media
- feedback from service users via providers and the local offer.

There should be a specific focus on how to secure feedback from hard to reach families.

The local authority may need to provide resources, training and support to enable some families and disabled children and young people to get involved and voice their opinion.

parent carer forums can often provide participation training for parent carers, to provide them with the skills, knowledge and confidence to take part in co-production activities; forums can also be asked to seek feedback from a wide range of parent carers on behalf of the local authority.

The voluntary sector, in particular short breaks providers, can also offer valuable insight and feedback to help inform service development and delivery.

*“Children and young people and their parents or carers will be fully involved in decisions about their support and what they want to achieve”*

Dr Dan Poulter, Parliamentary Under-Secretary of State for Health & Edward Timpson,  
Parliamentary Under-Secretary of State for Children and Families  
SEND Code of Practice, January 2015

## Section 2 Checklist

Factors to consider/criteria to mark level of development	How well is your service/statement developed, based on the suggested criteria? (Tick one)			Evidence available to support grading	Further comments	Next steps/Ideas to go into Action Plan
	Not well developed	In development	Well developed			
A multi-agency group including parent carers and children/young people has been formed to oversee the development of short breaks strategy and provision.						
Those involved have a good understanding of the short breaks duty on the local authority						

<p>A wide consultation has taken place, seeking feedback from a range of stakeholders including:</p> <ul style="list-style-type: none"> <li>- parent carers</li> <li>- children/young people</li> <li>- voluntary sector/providers</li> </ul>						
<p>A wide range of methods have been used for the consultation, to reach a wide range of stakeholders. This may include:</p> <ul style="list-style-type: none"> <li>- online surveys/polls</li> <li>- local offer feedback</li> <li>- focus groups</li> <li>- postal surveys</li> <li>- meeting with existing groups of parents or children/young people</li> <li>- roadshows/open days</li> <li>- information stands at events/public venues</li> <li>- service feedback</li> <li>- provider feedback</li> <li>- consultation events</li> <li>- commissioning panels</li> </ul>						

<p>Consultation data is current and does not rely on historic, potentially out of date, data and feedback</p>						
<p>The parents consulted been a broadly representative group of parent carers including:</p> <ul style="list-style-type: none"> <li>- the parent carer forum</li> <li>- other parent groups</li> <li>- hard to reach families</li> </ul>						
<p>Parent carers have been fully supported to take part in this decision making. Suitable evidence includes details of:</p> <ul style="list-style-type: none"> <li>- training provided</li> <li>- clear roles/responsibilities</li> <li>- remuneration/expenses</li> <li>- how co-production principles have been fully achieved</li> </ul>						

<p>The children/young people involved have been broadly representative, including:</p> <ul style="list-style-type: none"> <li>- a range of abilities and Interests</li> <li>- a range of support needs</li> <li>- a range of ages, including younger children</li> </ul>						
<p>Children and young people have been supported to be involved</p> <ul style="list-style-type: none"> <li>- support has been available for those with learning difficulties, communication needs or other complex needs</li> <li>- training has been provided</li> <li>- they have been recognised and rewarded for their involvement</li> </ul>						
<p>Parent carers and children/young people feel that they have been able to influence the short breaks provision locally and that it meets their needs</p>						

<p>The voluntary sector/providers have been able to fully contribute to the consultation process</p> <ul style="list-style-type: none"><li>- universal/mainstream providers</li><li>- specialist providers</li><li>- different sized Organisations</li></ul>						
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## Section 3 – Improving outcomes

### What the law says

#### **The Breaks for Carers of Disabled Children Regulations 2011**

In performing their duty under paragraph 6(1)(c) of Schedule 2 to the 1989 Act (3), a local authority must:

- (a) have regard to the needs of those carers who would be unable to continue to provide care unless breaks from caring were given to them; and
- (b) have regard to the needs of those carers who would be able to provide care for their disabled child more effectively if breaks from caring were given to them to allow them to:
  - (i) undertake education, training or any regular leisure activity,
  - (ii) meet the needs of other children in the family more effectively, or
  - (iii) carry out day to day tasks which they must perform in order to run their household.

#### **Children and Families Act 2014**

19. Local authority functions: supporting and involving children and young people

In exercising a function under this Part in the case of a child or young person, a local authority in England must have regard to the following matters in particular:

- (d) the need to support the child and his or her parent, or the young person, in order to facilitate the development of the child or young person and to help him or her achieve the best possible educational and other outcomes.

There is no value in providing short breaks services to local families if they are not making a difference to their lives, either now or in the future. short breaks should help parent carers continue with, or become more effective at, their caring responsibilities. This will:

- reduce the number of families falling into crisis
- improve mental health and general wellbeing
- enable families to undertake activities that other families take for granted, such as household duties, leisure activities and taking part in training or education opportunities. Local authorities are required to have regard to these issues in complying with the short breaks duty, see regulation 3 of the Breaks for Carers of Disabled Children Regulations 2011. There may also be duties under the Children Act 1989 and Chronically Sick and Disabled Persons Act 1970 (children) and Care Act 2014 (adults) to provide short breaks services to meet these kinds of needs.



Short breaks can also offer siblings valuable 1-2-1 time with their parents. Siblings of disabled children may have rights to support as family members of disabled children, as young carers and potentially as children 'in need' in their own right.

Families accessing short breaks have reported being:

- better equipped to care for their disabled child – reducing the number of families reaching breaking point.
- less tired following rest and recuperation. Not having to be constantly alert and having more time to be able to think clearly
- able to spend more time with their other children, better family cohesion, more time to care for the rest of the family
- able to undertake every day chores/household tasks in order to run their home
- more social engagement and engagement in simple activities such as reading a book or meeting friends for a coffee – things others take for granted but that mean so much when you cannot do them
- being able to access training/education opportunities or to be able to return to work
- improved family relationships
- improvement in their parenting skills and being able to be more loving parents

(Source: Hampshire Parent Carer Network)

At the same time, there are valuable outcomes for children and young people who have short breaks, which affect them now and in the future. Well planned short breaks services not only provide fun and safe activities, but help children and young people now and in the future by:

- developing confidence and resilience
- learning new skills
- developing communication skills and strategies
- developing and maintaining friendships and relationships with peers
- being healthy and active
- developing independence and self-help skills
- inclusion in their local community
- being able to feel 'normal' and do activities that others take for granted.

There are also positive impacts on society as a whole, as disabled children and young people and their families become more involved in their local communities.

*“Our vision for children with special educational needs and disabilities is the same as for all children and young people – that they achieve well in their early years, at school and in college, and lead happy and fulfilled lives... the aspirations for children and young people will be raised through an increased focus on life outcomes, including employment and greater independence.”* Dr Dan Poulter, Parliamentary Under-Secretary of State for Health & Edward Timpson, Parliamentary Under-Secretary of State for Children and Families

### Section 3 Checklist

Factors to consider/criteria to mark level of development	How well is your service/statement developed, based on the suggested criteria? (Tick one)			Evidence available to support grading	Further comments	Next steps/Ideas to go into Action Plan
	Not well developed	In development	Well developed			
There is a consensus of opinion as to the outcomes that should be improved through the provision of short breaks						
Systems and processes are in place to secure qualitative and quantitative data to monitor the improvement of outcomes						
Short breaks are helping children and young people develop confidence and resilience						

Short breaks are helping children and young people develop independence and self-help skills						
Short breaks are helping children and young people to develop and maintain friendships and relationships with peers						
Short breaks are enabling children and young people to be included in their local community						
Short breaks are enabling children and young people to lead active and healthy lifestyles						
Short breaks provide opportunities for children and young people to take part in fun activities						
Short breaks are enabling parent carers to undertake education, training and leisure activities						

Short breaks are enabling parent carers to meet the needs of siblings more effectively						
Short breaks are enabling parent carers to undertake necessary day to day tasks to run their household						
Short breaks are enabling parent carers to be more effective in their role as carers						

## Section 4 – Determining provision & eligibility

### What the law says

#### The Breaks for Carers of Disabled Children Regulations 2011

In performing their duty under paragraph 6(1)(c) of Schedule 2 to the 1989 Act(3), a local authority must:

- (a) have regard to the needs of those carers who would be unable to continue to provide care unless breaks from caring were given to them; and
- (b) have regard to the needs of those carers who would be able to provide care for their disabled child more effectively if breaks from caring were given to them to allow them to—
  - (i) undertake education, training or any regular leisure activity,
  - (ii) meet the needs of other children in the family more effectively, or
  - (iii) carry out day to day tasks which they must perform in order to run their household.

In performing their duty under paragraph 6(1)(c) of Schedule 2 to the 1989 Act, a local authority must provide, so far as is reasonably practicable:

‘a range of services which is sufficient to assist carers to continue to provide care or to do so more effectively.’

In particular, the local authority must provide, as appropriate, a range of:

- (a) day-time care in the homes of disabled children or elsewhere
- (b) overnight care in the homes of disabled children or elsewhere
- (c) educational or leisure activities for disabled children outside their homes, and
- (d) services available to assist carers in the evenings, at weekends and during the school holidays.

Local authorities must have regard to (a) the needs of those carers who would be able to provide care more effectively if they had breaks from caring, and (b) the needs of those carers who would be unable to continue to provide care unless a break were offered to them.

The legislation clearly outlines the purpose of short breaks and the wide range of short breaks that need to be made available, in accordance with local need.

Many local authorities use eligibility criteria to determine which children in their local area can access specific services. However, there is no express legal basis for the use of eligibility criteria in children's services, and local authorities may find themselves open to legal challenge if the criteria are seen to be excluding families from services they are entitled to by law, or if the criteria are unfair, unreasonable or discriminatory.

Local authorities need to give families with disabled children transparent information about how decisions about access to services are reached, including any eligibility criteria.

See Appendix Two for more information about Eligibility Criteria

*Regulation 3 effectively creates a purpose for the provision of short breaks. As well as crisis care, short breaks should enable family carers to study or undertake leisure activities, meet the needs of other children or carry out household tasks. What is obviously missing from this list is work, because the service designed to assist family carers of disabled children to work is childcare, which has its own statutory scheme. Given the wider duties on local authorities to safeguard and promote children's welfare it is also of course essential that every Short Break is a positive and safe experience for the disabled child." Steve Broach, Barrister*

## Section 4 Checklist

Factors to consider/criteria to mark level of development	How well is your service/statement developed, based on the suggested criteria? (Tick one)			Evidence available to support grading	Further comments	Next steps/Ideas to go into Action Plan
	Not well developed	In development	Well developed			
The local authority's short breaks provision includes day-time care in the homes of disabled children or elsewhere						
The local authority's short breaks provision includes overnight care in the homes of disabled children or elsewhere						

The local authority's short breaks provision includes educational or leisure activities for disabled children outside their homes						
The local authority's short breaks provision includes services available to assist carers in the evenings, at weekends and during the school holidays						
The local authority's short breaks provision provides positive experiences for children/young people						



<p>Parent carers and children/young people have been involved with determining what type of short breaks activities are made available and when/where they are available</p>						
<p>Parent carers and children/young people have been involved with determining any eligibility criteria for short breaks</p>						
<p>Any eligibility criteria used is legal and does not use potentially unlawful criteria such as:</p> <ul style="list-style-type: none"> <li>- maximum cap on use</li> <li>- exclusion of certain impairments, eg mental health issues</li> <li>- putting children in fixed Bands</li> </ul>						
<p>Services are available for children of all ages 0-18 years</p>						

<p>Service eligibility is determined by the local authority applying criteria or through local authority assessment.</p> <ul style="list-style-type: none"> <li>- it cannot be delegated to providers to assess eligibility</li> </ul>						
<p>Eligibility criteria is clear and can be easily understood by parent carers and children/young people</p> <ul style="list-style-type: none"> <li>- there is no jargon</li> <li>- it is not open to interpretation</li> <li>- subjective language is avoided (eg use of phrases such as 'severe' or 'complex')</li> </ul>						
<p>Eligibility criteria is published on the short breaks services statement and the local offer</p>						

Eligibility criteria is consistently applied to all children and young people						
Information is published about the process for feedback and challenge in terms of decisions made based on eligibility criteria						

## Section 5 – Preparing the short breaks services statement

### What the law says

#### **The Breaks for Carers of Disabled Children Regulations 2011**

A local authority must, by 1st October 2011, prepare a statement for carers in their area (a “short breaks services statement”) setting out details of:

- (a) the range of services provided in accordance with regulation 4,
- (b) any criteria by which eligibility for those services will be assessed, and
- (c) how the range of services is designed to meet the needs of carers in their area.

The local authority must publish their short breaks services statement, including by placing a copy of the statement on their website.

Local authorities, in consultation with carers in their area, prepare, publish, and keep under review, a “short breaks services statement” setting out what services are available, the categories of carer who may be eligible to gain access to them, and how they are designed to meet the needs of carers in the area.

A clear and well-written short breaks services statement gives parent carers and disabled children and young people the information they need to know about short breaks provision in the local area. It allows them to understand what services are available, where they are available and how they can access them.

The document should be co-produced with parent carers and disabled children and young people to ensure that it is:

- easy to understand
- provides the information that they wish to know, and
- includes clear and unambiguous eligibility criteria.

It should be easily available to all parent carers, including those who do not have access to the Internet, and should also form part of the local authority’s local offer.

When preparing the services statement, use the following techniques to help produce clear and accessible documents:

- Contents page
- Appealing design, aimed at the specific audience
- Clear sections/headers
- Summary statements
- Use of colour coding
- Use of images (photography or illustrations)
- Use of bullet points
- No long pages/sections of text
- Speech bubbles/quotes
- Coloured boxes
- Diagrams/tables
- Appendices

See Appendix Three for examples of good practice when writing short breaks services statements.

*“The ‘short breaks services statement’ required under Regulation 5 is an important aid to transparency and fairness in the allocation of short breaks. Through the statement families should know what breaks are available and what criteria need to be met to access them. The statement must also show that the sufficiency duty imposed by regulation 4 has been met – by setting out ‘how the range of service is designed to meet the needs of carers in [the] area’.” Steve Broach, Barrister*

## Section 5 Checklist

Factors to consider/criteria to mark level of development	How well is your service/statement developed, based on the suggested criteria? (Tick one)			Evidence available to support grading	Further comments	Next steps/Ideas to go into Action Plan
	Not well developed	In development	Well developed			
The following parties have all been involved in the co-production of the statement: - Parent Carers - Disabled children and young people - Voluntary sector providers						
It is clear how the statement has been developed						

There is a statement detailing the process of consultation that took place to develop the range of short breaks services						
The statement makes it clear how the range of services is designed to meet the needs of carers in their area						
The statement makes it clear what range of services are on offer						
The statement makes it clear how parents and children/young people can access the range of services on offer						
The statement makes it clear if there are any eligibility criteria. If there are such criteria, then it is clear which services this applies to and who is eligible for services						

<p>The statement identifies clear priorities for improving outcomes for local disabled children and young people</p>						
<p>It is clear how families have a choice about what services they use</p>						
<p>Best practice guidelines re: presentation of the statement have been followed, eg the use of:</p> <ul style="list-style-type: none"> <li>- contents page</li> <li>- clear sections</li> <li>- summary statements</li> <li>- use of colour coding</li> <li>- use of images (photography or illustrations)</li> <li>- use of bullet points</li> <li>- no long pages/sections of text</li> <li>- speech bubbles/quotes</li> <li>- Coloured boxes</li> <li>- diagrams/tables</li> <li>- appendices</li> <li>- appealing design, aimed at audience</li> </ul>						



It is evident how well Universal/mainstream services are able to meet the needs of disabled children and young people						
It is clear what measures are being taken to improve access to universal /mainstream services						
There is a clear plan of how capacity will be developed and sustained to ensure there is sufficient short breaks to meet local need						
The statement makes it clear how workforce confidence and skills will be improved						
It is clear how children and young people with the highest level of need are able to access services and what specialist services are available						

<p>There is a statement about how compliance with the Equality Act 2010 is leading to a seamless service for disabled children and young people</p>						
<p>A comprehensive list of short breaks services/providers is made available, including locations, times, description of activity and who the service would be suitable for</p>						
<p>It is clear how much families will be charged/expect to pay for any service, with a link to the local authority's charging policy</p>						
<p>The statement provides details of how families can use Personal Budgets/Direct payments for short breaks</p>						

The statement provides details of support available to families using Direct payments						
The statement describes how services promote transition to adult services for young people						
It is clear how transport is used to support access to short breaks						
The statement is accessible to families in a variety of formats						
The statement is included within the local offer and there are clear links between the local offer and the development of short breaks provision						

The statement is written in Plain English. Parents can understand it. All jargon and acronyms have been removed or suitably explained						
The statement is available for people who do not have access to the Internet.						
Access to the statement is supported for those who have additional needs. An Easy Read version is available						
The statement is easy to find using major search engines, using phrases that parents would use (rather than professional terminology)						
It is clear within the published statement when it was last reviewed/updated						

It is clear within the published statement how and when it will next be reviewed, and how parent carers and children/young people can get involved						
A contact name for the accountable local authority Officer is included within the statement						

## Section 6 – Ongoing review and evaluation

### What the law says

#### **The Breaks for Carers of Disabled Children Regulations 2011**

The local authority must keep their short breaks services statement under review and, where appropriate, revise the statement.

In preparing and revising their statement, the local authority must have regard to the views of carers in their area.

#### **Children and Families Act 2014**

Duty to keep education and care provision under review

(1) A local authority in England must keep under review:

- (a) the educational provision, training provision and social care provision made in its area for children and young people who have special educational needs or a disability, and
- (b) the educational provision, training provision and social care provision made outside its area for:
  - (i) children and young people for whom it is responsible who have special educational needs, and
  - (ii) children and young people in its area who have a disability

(2) The authority must consider the extent to which the provision referred to in subsection (1)(a) and (b) is sufficient to meet the educational needs, training needs and social care needs of the children and young people concerned.

(3) In exercising its functions under this section, the authority must consult:

- (a) children and young people in its area with special educational needs and the parents of children in its area with special educational needs
- (b) children and young people in its area who have a disability, and the parents of children in its area who have a disability.

Parent carers and families need to be able to access accurate and current information easily, so they know what services are available to them. Out of date information will provide additional stresses and frustrations to families, having a negative impact on their lives.

It is important that the short breaks services statement is a living, breathing document, one that is regularly reviewed and updated. It is not sufficient to simply review the wording of the document. It should include an assessment of:

- whether short breaks are still meeting the needs of local families and
- whether any changes to provision are required.

Introducing a review of the short breaks services statement encourages a formal process of monitoring and evaluation of commissioned short breaks services. This ensures they are meeting agreed outcomes and offering value for money. It enables both service users and service providers to give feedback on how well services are meeting their needs, as well as suggestions for improving services.

Parent carers' views must be considered. The views of disabled children and young people are equally important and should also be considered within the review process.

The frequency for review is a matter for each local authority to decide. This flexibility allows the local authority to revise and keep the document current according to local circumstances. Best practice suggests it should be undertaken at least annually.

## Section 6 Checklist

Factors to consider/criteria to mark level of development	How well is your service/statement developed, based on the suggested criteria? (Tick one)			Evidence available to support grading	Further comments	Next steps/Ideas to go into Action Plan
	Not well developed	In development	Well developed			
There is an ongoing review of the statement, which is reviewed at least every 12 months (and more frequently when significant changes to provision have occurred)						
The review process includes an assessment and consultation as to whether local needs have changed and whether the levels of provision remain sufficient						



<p>The review process measures impact and considers the extent to which outcomes have improved for local children and young people</p>						
<p>The review process evaluates the impact of short breaks in assisting parent carers 'to continue to care or to do so more effectively'?</p>						
<p>The review process considers whether the range of short breaks services has offered value for money</p>						
<p>The review seeks/considers feedback from service users and service providers, including feedback provided via the local offer. A range of consultation methods are used.</p>						

<p>A range of stakeholders are involved in the review process including</p> <ul style="list-style-type: none"> <li>- Parent Carers</li> <li>- Children/Young People</li> <li>- Voluntary sector/providers</li> <li>-</li> </ul>						
<p>Updates to the statement are widely publicised so that parent carers know the document has been updated</p>						

**Action plan for local authorities**

Action Plan	Who will be responsible	Agreed timescales	Resources/stakeholder support required	Further comments
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

## Glossary/definitions

<p>Care Plan Child in Need Plan</p>	<p>Both terms are used to describe the plan that is put in place for looked after children.</p> <p>A record of the health and/or social care services that are being provided to a child or young person to help them manage a disability or health condition. The Plan will be agreed with the child's parent or the young person and may be contained within a patient's medical record or maintained as a separate document.</p> <p>Care Plans are also maintained by local authorities for looked after children – in this instance the Care Plan will contain a Personal Education Plan in addition to the health and social care elements.</p>
<p>Disability</p>	<p><a href="#">Equalities Act 2010</a> defines a disability as ‘...a physical or mental impairment which has a long-term and substantial adverse effect on their ability to carry out normal day-to-day activities’</p> <p>The definition of ‘disabled’ is found in <a href="#">section 17(11) the Children Act 1989</a>, which includes children who:</p> <ul style="list-style-type: none"> <li>• are blind</li> <li>• deaf, or</li> <li>• non-verbal, or</li> <li>• suffer from a ‘mental disorder of any kind’, or</li> <li>• are ‘substantially and permanently handicapped by illness, injury or congenital deformity, or such other disability as may be prescribed’.</li> </ul>
<p>Education, Health &amp; Care Plan (EHC Plan/EHCP)</p>	<p>An EHC plan details the education, health and social care support that is to be provided to a child or young person who has SEN or a disability. It is drawn up by the local authority after an EHC needs assessment of the child or young person has determined that an EHC plan is necessary, and after consultation with relevant partner agencies.</p>
<p>Local offer</p>	<p>Local authorities in England are required to set out in their local offer information about provision they expect to be available across education, health and social care for children and young people in their area who have SEN or are disabled, including those who do not have Education, Health and Care (EHC) plans.</p> <p>Local authorities must consult locally on what provision the local offer should contain.</p>

Personal budget	A personal budget is an amount of money identified by the local authority to deliver provision set out in an EHC plan where the parent or young person is involved in securing that provision. The funds can be held directly by the parent or young person, or may be held and managed on their behalf by the local authority, school, college or other organisation or individual and used to commission the support specified in the EHC plan.
Special educational needs	A child or young person has special educational needs if he or she has a learning difficulty or disability, which calls for special educational provision to be made for him or her. A child of compulsory school age or a young person has a learning difficulty or disability if he or she—has a significantly greater difficulty in learning than the majority of others of the same age, or has a disability which prevents or hinders him or her from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions. A child under compulsory school age has a learning difficulty or disability if he or she is likely to be within subsection (2) when of compulsory school age (or would be likely, if no special educational provision were made). A child or young person does not have a learning difficulty or disability solely because the language (or form of language) in which he or she is or will be taught is different from a language (or form of language) which is or has been spoken at home.
Special educational provision, health care provision and social care provision	Special educational provision, for a child aged two or more or a young person, means educational or training provision that is additional to, or different from, that made generally for others of the same age in—mainstream schools in England, maintained nursery schools in England, mainstream post-16 institutions in England, or places in England at which relevant early years education is provided. Special educational provision, for a child aged under two, means educational provision of any kind. Health care provision means the provision of health care services as part of the comprehensive health service in England continued under section 1(1) of the National Health Service Act 2006. Social care provision means the provision made by a local authority in the exercise of its social services functions. Health care provision or social care provision which educates or trains a child or young person is to be treated as special educational provision (instead of health care provision or social care provision).

## Further Support/Resources Available

The Breaks for Carers of Disabled Children Regulations 2011

<http://www.legislation.gov.uk/uksi/2011/707/made>

Short breaks for carers of disabled children

Departmental advice for local authorities (March 2011)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/245580/Short\\_Breaks\\_for\\_Carers\\_of\\_Disabled\\_Children.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/245580/Short_Breaks_for_Carers_of_Disabled_Children.pdf)

Special educational needs and disability code of practice: 0 to 25 years

Statutory guidance for organisations which work with and support children and young people who have special educational needs or disabilities (January 2015)

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/398815/END\\_Code\\_of\\_Practice\\_January\\_2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/END_Code_of_Practice_January_2015.pdf)

Chronically Sick and Disabled Persons Act 1970

<http://www.legislation.gov.uk/ukpga/1970/44>

Children Act 1989 Part III

<http://www.legislation.gov.uk/ukpga/1989/41/part/III>

Children and Families Act 2014 – Part 3

<http://www.legislation.gov.uk/ukpga/2014/6/part/3>

Parent Carer Participation - an overview - good practice in developing parent carer participation, written for commissioners and service managers

Contact A Family/National Network of Parent Carer Forums

[http://www.cafamily.org.uk/media/468625/pcp\\_overview\\_with\\_images\\_low\\_res.pdf](http://www.cafamily.org.uk/media/468625/pcp_overview_with_images_low_res.pdf)

Parent Carer Participation – How to Guide

<http://www.nnpfc.org.uk/useful-information/parent-carer-participation-how-to-guide>

National Network of Parent Carer Forums

<http://www.nnpfc.org.uk>

Short Breaks Duty Statements – Interim Report (2012)

Impact

<http://www.councilfordisabledchildren.org.uk/media/923528/impact-short-breaks-duty-statements-interim-report.pdf>

Disabled Children: A Legal Handbook

<http://www.councilfordisabledchildren.org.uk/media/1089695/chapter-3.pdf>

## **APPENDIX ONE - Top tips for parent carer forums and local authorities to effective co-production and participation**

- Involve parent carers and children/young people from the very start of the project. Create the expectation that parent carers and children/young people will be involved in **every aspect of service planning, design/development and delivery**
- Give everyone involved an **equal voice**. Value all contributions. Ensure everyone has an opportunity for their voice to be heard
- Agreement about what you are trying to achieve at the outset is essential. Everyone should be working with the **same vision**, working towards achieving the same outcomes
- Before you start the actual project **decide together** how you are going to work and what will make it successful and stick to it
- Ensure everyone in the group **knows who everyone else is**, and what their role is
- **Committed leadership** is needed throughout process
- Consider providing **participation training and good practice guidelines** for parent carers and children/young people who are involved in co-production
- Provide **recognition and reward** for parent carers and children/young people involved in co-production. All expenses should be covered as a minimum
- **Regular, honest and open communication** is required to support the development of the trust. Ensure everything in the co-production process is accessible to everyone taking part. Check the **best format for parents to receive the information**, eg post or email. Do not assume that because they have an email address that they are happy to print out all the information you send, as it can be very costly and time consuming.
- **Recognise the realities of life for parent carers of disabled children**. Set meetings at convenient times (in school hours or evenings, avoid school holidays), provide paperwork in advance with sufficient time to read it, communicate regularly and turnaround expenses and recognition payments swiftly. Consider the most effective ways of involving parent carers and children/young people including the use of social media and other technologies
- Always use **plain language** in written and spoken communications. **Avoid jargon, acronyms and bureaucratic language**.

## APPENDIX TWO – Determining eligibility criteria

When setting eligibility criteria, local authorities should have regard to their responsibilities under the Equality Act 2010, the Children Act 1989, and the Chronically Sick and Disabled Persons Act 1970.

In 2009, a Judicial Review *R (JL and LL) v Islington* found that changes made by the local authority to their eligibility criteria did not meet legal requirements and were unlawful. Mrs Justice Black stated that local authorities' eligibility criteria must not:

- limit the amount of provision to be made to eligible children. Eligibility criteria should determine which children are eligible but not what services they will get
- prescribe a fixed maximum amount of support
- be used instead of an assessment
- ignore the disability equality duty.

The Equality Act provides a baseline on which local eligibility criteria should be built. This means that all children should have access to universal/mainstream services. Local areas should work towards eliminating discrimination and promoting equality of opportunity by building capacity and confidence in local services so that they are accessible to all children. Some children may require high levels of support or tailored activities and therefore to ensure most disabled children are not disadvantaged, a range of universal and specialist services will be required in each area.

Under the Children Act 1989 local authorities are required to assess and prioritise the way they meet the needs of children in the local area. They are allowed to use eligibility criteria and to take into account local resources when deciding whether to provide services following an assessment of need. However, they must comply with the Equality Act 2010 when making their decision as to which children will be eligible.

The needs of most children can and should be met by universal/mainstream services, but all families have the right to an assessment under the Children Act 1989 if they feel that their needs are not being met. Eligibility criteria cannot be used to limit access to an assessment, although local authorities may be able to use different types of assessment for children with different levels of need.

In their report 'Calling for Clarity: Eligibility for short breaks' Every Disabled Child Matters identified a number of areas of good practice relating to eligibility criteria:

- making it clear that decisions will not be made without an assessment. Good practice saw local authorities making families' rights clear in relation to assessments and parents understood the process that followed their request for assessment
- developing public information about eligibility in partnership with parents, to ensure it is accessible – a range of languages, format to be used, distributed through a number of avenues (not just online). Making information on eligibility criteria easy to find and specifically targeting 'hard to reach' groups



- Involving parents in designing eligibility criteria, with criteria developed to meet the needs of the local population
- Investment in universal as well as specialist services
- Development of a short breaks offer with a minimum not maximum package of support.

Under section 2 of the [Chronically Sick and Disabled Persons Act 1970](#), local authorities must meet disabled children's needs for short breaks at home and in the community where they assess that it is necessary for them to do so, taking account of the child's needs in the family context and the resources available to the local authority.

### APPENDIX THREE – Good practice when writing short breaks services statements

In their report '[Short Breaks Duty Statements – Interim Report](#)' (2012), Impact identified examples of good practice in short breaks services statements, including:

- a named officer with responsibility for the statement and clear links to the wider governance and management arrangements
- information about specific services and providers and who the services would be suitable for
- description of the activities and the time/dates that activities take place, and a list of all short breaks providers
- information that is up to date and a description of how this will be maintained
- Clear information about eligibility criteria and how to access services
- Examples provided of which children may be eligible for specific services and activities
- visual representation of eligibility criteria
- how parents are able to make decisions about the type of short break needed
- the commitment to and use of personalisation to provide choice and flexibility
- How short breaks support the development of life skills and the transition to adult services
- a clear understanding of the needs of disabled children and young people and their families with identified service priorities
- an understanding of workforce needs and how they will ensure sufficiency
- approaches to develop the market
- a description of commissioning intentions
- statements being placed in more than one website, for example through the parent carer forum and partner websites
- information about the statement being available in a variety of formats including community languages, braille, audio tape and British Sign Language
- description of how often the statement will be reviewed with the review date identified.