



## SHORT BREAKS – HELP FOR YOU & YOUR CHILD TO TAKE A BREAK

Many families with disabled children and/or health conditions benefit from regular breaks from their caring responsibilities. Taking a break from caring for your child is not an admission of failure or a way of saying you don't care. A break is an opportunity to recharge batteries, spend time with others or pursue a particular interest. A break may also allow your child to have a change of scene, try different experiences, have fun and make friends. This may contribute to your child's personal and social development and reduce social isolation. It can also be helpful to get your child used to spending time in different settings and with other people as they grow up, in the event you need to leave them with someone in the future.

### WHAT ARE SHORT BREAKS?

Local authorities have 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.

Short breaks can include:

#### Day care at home

This includes sitting or care attendant schemes, which provide someone to sit with or 'mind' your child while you do another activity. They can also be useful in preparing children and parents for overnight placements at a later stage.

#### Overnight short breaks

Taken in your own home, or an overnight sitting or nursing service if your child needs it – this may include a hospice at home service for children with complex disabilities and palliative care needs.

#### Day care away from home

This includes nurseries, playgroups, after school and weekend clubs, young clubs, summer holiday play schemes, sports activities, for example inclusive cycling or martial arts, music, art and drama activities.

#### Residential breaks

Where your child stays in a residential home, special unit in hospital or hospice – typically they offer both indoor and outdoor activities as well as having staff to provide nursing care and support as needed.



#### Family link schemes

Where your child stays with another family on a regular basis or occasionally.

#### Support for disabled children/young people

To access activities in universal settings, for example with the support of a befriending, sitting or sessional service.

### WHAT DOES THE LAW SAY ABOUT SHORT BREAKS?

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

Creates a right for disabled children to receive social care services, including short breaks, when they are assessed to be necessary to meet their needs. Under this Act, the duty to provide services is to the individual disabled child and does not extend to other members of the family.

Examples of these services are:

- *practical assistance in the home – like help with personal care of your child, for example help with getting in and out of bed. This could also include home-based short breaks.*
- *outings or other recreational facilities outside the home.*

## **The Children Act 1989**

Schedule 2, paragraph 6 (1) of the Children Act 1989 requires local authorities 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’.*

It also requires them 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*
- *promote disabled children being brought up by their families.*

The Children Act 1989 includes the right to permanent and or temporary residential accommodation, if your child needs it. It forms the legal basis for residential short breaks. If your child needs this service, then it should be provided. Importantly, the Act allows social services to provide help which will benefit other family members, like siblings and other carers.

To comply with the law, local authorities must not only offer short breaks to families in or near crisis, but also support families to allow effective caring to continue by providing appropriate services for them.

## **BREAKS FOR CARERS OF DISABLED CHILDREN REGULATIONS 2011**

These regulations 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. The regulations say that local authorities must take into account:

- *the needs of carers who would be unable to continue to provide care unless breaks from caring were given to them, and*
- *the needs of 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:*
  - *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.*

The range of services must include:

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

## **CHILDREN AND FAMILIES ACT 2014**

The *Special educational needs and disability code of practice 0-25* (which accompanies the Children and Families Act) says that local authorities need to take the views of parents, children and young people into account so that services, like short breaks services, meet their needs. One way the Act says they must do this is via local parent carer forums. Parent carer forums are groups of parents and carers of disabled children in each local authority area. Their aim is to make sure the services in their area meet the needs of disabled children and their families.

## **WHERE CAN I FIND OUT ABOUT SHORT BREAKS IN MY AREA?**

The *Breaks for Carers of Disabled Children Regulations 2011* say that local authorities must prepare a ‘short breaks statement’ for carers, setting out:

- *the range of services available*
- *eligibility criteria for accessing the services, and*
- *how these services are designed to meet the needs of families with disabled children in their area.*

They must publish this information on their website as part of their local offer – search for ‘local offer’ or ‘short breaks’.

## **HOW DO I GET A SHORT BREAK?**

Local authorities must make it clear how families can access short breaks. The main route involves undergoing an assessment of your child and family’s needs by social services. This is generally referred to as a Children’s Act Assessment. You should be able to find contact details of your local authority on their website or under their local offer.


## WHAT IS AN ASSESSMENT?

An assessment under the Children's Act 1989 can lead to the provision of services which support families, including short breaks. The assessment is the process social services use to gather information about your child and family, so they can make a decision about what help you may need. The **Working Together to Safeguard Children** guidance emphasises the importance of the assessment being child and family centred. The approach should also be holistic, addressing the child's needs within their family and wider community.

You don't need to have a diagnosis for your child to get an assessment or help from social services – if your child needs help or support, an assessment of their needs should still be made. Consider making a complaint if this doesn't happen.

Advice on challenging a refusal to assess your child's needs can be found at [www.contact.org.uk/refusal-letter](http://www.contact.org.uk/refusal-letter).

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 For detailed information on how to get help from social services, what to expect during an assessment and tips for attending meetings, see our guide, **Services and support from your local authority**.

## AFTER THE ASSESSMENT

If the local authority agree that services should be provided, they should draw up a plan which sets out who is going to do what, where and when to help you and your child.

Where short break needs have been recognised, then the local authority can arrange the necessary services themselves, or you can ask for direct payments so you can buy in short breaks. This can include a child going into a residential unit or more flexible breaks, like a child going to stay with a care worker. You could also use a direct payment to employ a personal assistant to accompany your child on holiday or some other activity. The maximum amount of residential care that you can buy for a child using direct payments is a single period of four weeks.

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 Our website has information about direct payments, or call our helpline on **0808 808 3555**.

If your child has an Education, Health and Care plan then the type of short breaks support and who will provide it should be included in section H1. This includes the use of direct payments provided under section 2 of the Chronically Sick and Disabled Persons Act 1970. Other services should be included in section H2 of the plan.

The local authority may decide there is no need for services, which could result in your case being closed with no further action taken. If you disagree with this decision you can challenge it using the local authority's complaints procedure.

## CARERS' ASSESSMENTS


A carer's assessment may also identify short break needs and lead to the provision of services. All parent carers have a right to ask for an assessment of their needs at any time, including if they need urgent help, in the same way as asking for an assessment for a child. You can also ask your GP, health visitor, community nurse, paediatrician or voluntary organisation to contact social services to ask for an assessment on your behalf.

Parents should use the Children and Families Act 2014 to ask for a 'parent carer's needs assessment'. It gives strengthened rights to assessments for parents carers, young people and young carers regarding work, education and leisure. For example, a local authority must take into account the wellbeing of parent carers, and they must also involve them, the disabled child and anyone the parent carer asks them to involve.

Non-parent carers have a right to a carer's assessment under The Carers (Recognition and Services) Act 1995.

The outcome of carer's needs assessment must be considered by the local authority when they decide what package of support, including short breaks, should be provided to a child under the Acts mentioned above.

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 For more information see our factsheet **Carers assessments – help for parent carers**.

## UNIVERSAL SHORT BREAKS SERVICES

Some short break schemes may be described as 'universal', which means they are available to all children and you don't need an assessment to access them. The criteria for accessing such services was never legislated for but practice guidance for the 2011 regulations states that criteria must be set fairly. For example criteria based on attendance at a special school or the award of a particular rate of Disability Living Allowance would be seen as unfair.

## WILL I HAVE TO PAY FOR ANY SHORT BREAKS?

Local authorities do have the power to charge for services they provide under the Children Act 1989 and the Chronically Sick and Disabled Persons Act. Each local authority will have its own charging policy and

it is usually your income and savings as a parent that are taken into account. Your child's Disability Living Allowance shouldn't be taken into account, and you should not be asked to pay more than you can afford.

When a child reaches 16 years of age, they are assessed in their own right. This means it should be their ability to pay which is taken into account and not yours.

### When should I not be charged?

If you get Working Tax Credit, or Child Tax Credit (paid at a rate above the family element) or Income Support or income-related Employment and Support Allowance, you should not be charged for Children Act services. You should also not be charged for advice, information and counselling services, regardless of your financial situation.


### Do I have to pay for services provided to me as a carer?

Services for carers of disabled children are normally provided under the Children Act and the same charging rules above apply.

### WHAT IF I'M REFUSED A SHORT BREAK?

It is quite common to hear statements like, 'Our local authority no longer provides short breaks' or, 'We don't do carers assessments in this local authority.' These statements are unlawful and you should have good grounds for a complaint.

In fact, the local authority should not put a blanket ban on any service and should always consider the needs of the individual child and family. Other families have challenged these statements in court and the courts have decided that a local authority can't 'unlawfully fetter its discretion'. This means they must always be prepared to consider requests which don't fit into their eligibility criteria.


 If you find yourself in this situation, see our guide to **Challenging cuts to short breaks services**, which has template letters you can use to write to your local authority if they are proposing to cut short breaks services, or have actually cut them:  
[www.contact.org.uk/challenging-cuts](http://www.contact.org.uk/challenging-cuts)


## IF YOU WANT TO KNOW MORE ABOUT HOW SHORT BREAKS SERVICES ARE DECIDED IN YOUR AREA


Get in touch with your local parent carer forum. Parent carer forums work with local authorities and other providers to make sure the services in their area meet the needs of disabled children and families. Parents or carers of a child with any type of additional need or disability are welcome to join. Joining your forum doesn't mean you have to commit lots of time. You can join and receive information, and then decide if you want to get more involved or not at your own pace.

### HOW CONTACT CAN HELP

Our helpline advisers can support you with any issue about raising your disabled child: help in the early years, diagnosis, benefits, education and local support.

 0808 808 3555

 [helpline@contact.org.uk](mailto:helpline@contact.org.uk)


 [www.contact.org.uk](http://www.contact.org.uk)

### Guides for parents

We have a wide range of free guides for parents, including:

- **Special educational needs in England – series of factsheets explaining extra help in education**
- **Aids, equipment and adaptations**
- **Holidays, play and leisure**
- **Understanding your child's behaviour**

A full list of our guides is at the link below. All our guides are free to parents who call our helpline, and are free to download:

 [www.contact.org.uk/publicationslist](http://www.contact.org.uk/publicationslist)



FREEPHONE HELPLINE

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