Template letter 3 – challenging a local authority’s failure to make sure there is enough childcare provision in its area.

[**ADDRESS OF LOCAL GROUP / FAMILY**]

[**DATE**]

[**NAME OF DIRECTOR**

**COUNCIL ADDRESS**]

Dear Mr / Mrs [**Name**],

I am writing on behalf of [**my family/name of local group**] to express concern about the failure by our local authority to secure sufficient childcare services for families with disabled children.

Childcare is essential in the modern world for all families, including families with disabled children. Yet the recent Parliamentary Inquiry into childcare for disabled children found that the vast majority of parents said that accessing childcare for disabled children is more difficult than for non-disabled children. In particular, 41% of parent carers who responded to the Inquiry’s survey said their children did not access the full 15 hours of the free entitlement for early education and childcare for three and four year olds.

In our area there are particular problems with accessing childcare for disabled children. [**Write a summary of these problems** – for example, that many parents of pre-school children cannot identify any appropriate childcare and so children are unable to benefit from the free offer].

We are aware that under Section 6 of the Childcare Act 2006, the local authority has a duty to ensure that there is sufficient childcare for parents who work or want to work, and that for disabled children this duty extends up to 18. Further, under section 8 of this Act the local authority has a power to provide financial assistance to childcare providers which could be used to meet the additional costs associated with childcare for disabled children.

Please can you respond to this letter confirming how the local authority is meeting the duties to provide childcare to disabled children under the Childcare Act 2006, and also addressing the following questions relating to other relevant duties:

1. How the local authority has considered the extent to which childcare provision is sufficient to meet the needs of children and young people in our area (Children and Families Act 2014 section 27). Please provide us in particular with:

a. The data you have on the number of disabled children in our area

b. The assessment of the level of childcare provision for disabled children in our area

c. The analysis which shows that the level of provision is sufficient to meet the needs of families with disabled children in our area.

1. How the authority has met its duty to provide day care for children ‘in need’ who are aged five or under and not yet attending schools (Children Act 1989 section 18). As you will be aware, all disabled children are children ‘in need’.
2. How the authority has complied with the ‘Public Sector Equality Duty’ under section 149 of the Equality Act 2010, in particular how ‘due regard’ has been paid to the need to advance equality of opportunity for disabled children in relation to access to childcare.

Please also confirm where the ‘local offer’ published under the Children and Families Act 2014 sets out ‘sources of information, advice and support…about childcare for children with special educational needs or a disability’. [**Delete this if the group is able quickly to find childcare information on the local offer website**].

Finally, please provide us with the most recent report to elected Members on how the authority is meeting its duty to secure sufficient childcare, as required by the statutory guidance issued by the Department of Education in September 2014 at para B.3. Please also highlight where in this report childcare for disabled children is addressed, as the guidance requires.

We consider that the provision of childcare for disabled children in our area falls far below that which is reasonably required to help parents to work. As such, it seems to us that the local authority may be in breach of the duties set out above, and also the rights protected by Articles 8 and 14 of, and Article 2 of the First Protocol to, the European Convention on Human Rights and Articles 3 and 18 of the UN Convention on the Rights of the Child.

We have written this letter using a guide that has been published by Contact, Every Disabled Child Matters and the Family and Childcare Trust. The guide is based on general legal advice.

We look forward to your response and would welcome the opportunity to meet with you to discuss the concerns we have set out above and understand the authority’s plans to improve childcare provision in our area.

[If however there is no positive response to our letter we may take legal advice as to whether the situation is open to challenge by way of judicial review – **delete this sentence if you do not intend to take matters further**].

Yours sincerely,

[**Name of person sending letter**]

[**cc any managers or social workers you have been in contact with, and potentially the Lead Member for Children’s Services**]