

“Short breaks should not be used just as crisis intervention but should help carers to maintain and improve the quality of care they want to and can provide.”

What are the duties on local authorities to provide short breaks?

Short Breaks Duty: Children Act 1989 and Breaks for Carers of Disabled Children Regulations 2011

Regulation 3: Duty to make provision:

- 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
- Have regard to the needs of those carers who would be able to provide care 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.

Regulation 4: Type of services which must be provided:

- In performing their duty under paragraph 6(1)(c) of Schedule 2 to the 1989 Act, a local authority (LA) 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:
 - 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 and,
 - Services available to assist carers in the evenings, at weekends and during school holidays.



Regulation 5: Short Breaks Statement

- A local authority must, by 1 October 2011, prepare a statement for carers in their area (a “short breaks statement”) setting out details of:
 - The range of services provided in accordance with regulation 4
 - Any criteria by which eligibility for those services will be assessed
 - How the range of services is designed to meet the needs of carers in their area
 - The local authority must publish their short breaks statement, including by placing a copy on their website
 - The local authority must keep their short breaks statement under review, and, where appropriate, revise the statement
 - In preparing and revising their statement, the local authority must have regard to the view of carers in their area.

What other legislation is relevant to commissioning short breaks?

Children and Families Act 2014, Section 26

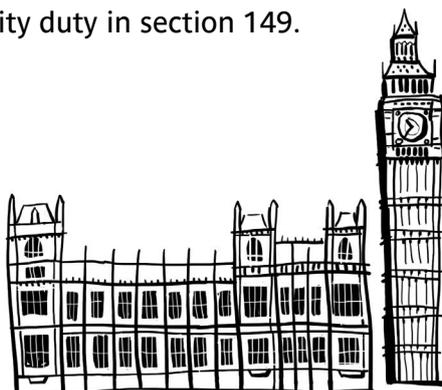
Local authorities are also required to jointly commission services with partner commissioning bodies for disabled children and young people and those with SEN.

The Wider Legal Context

As well as the Short Breaks Duty, there are other sources of law which may require local authorities to provide short breaks.

- **Chronically Sick and Disabled Persons Act 1970 (Section 2)**
- **Children Act 1989 (Section 17)**
- **Children and Families Act 2014**
- **Article 8 of the European Convention on Human Rights, through section 6 of the Human Rights Act 1988**

Decisions on commissioning short breaks should also be informed by the Equality Act 2010, in particular the public sector equality duty in section 149.



Key questions for local authorities when commissioning short breaks provision

- Can the local authority provide evidence to demonstrate its compliance with the 'sufficiency duties'?
- Does the LA know how many disabled children there are locally?
- Are strategic conversations happening with commissioners of other services that disabled children access i.e. health commissioners?
- What is the likely need for short breaks of this group of children and young people?
- Can the LA evidence that current provision is meeting this need?
- Is the Short Breaks Statement accessible to families in the area; does it accurately describe services available and set out how these are sufficient to meet local need?
- Are all short break opportunities listed in the Local Offer?



Key questions for local authorities around Personalisation and Short Breaks

- Are strategic outcomes (part of joint commissioning arrangements) considered when commissioning short breaks services?
- Is there a mechanism for young people and families to provide feedback on the short breaks they access?
- Is the local authority involving children, young people and their families in development and review of short breaks services?



About the Council for Disabled Children

The Council for Disabled Children (CDC) is the umbrella body for the disabled children's sector in England, with links to the other UK nations. CDC works to influence national policy that impacts upon disabled children and children with Special Educational Needs (SEN) and their families. The CDC Council is made up of a variety of professional, voluntary and statutory organisations, including disabled young people and parent representatives. CDC's broad based membership and extensive networks of contacts provides a unique overview of current issues. It also enables us to promote collaborative and partnership working among organisations.

CDC hosts the following networks and projects:

- IASS Network
- Independent Support
- Making Ourselves Heard
- Special Educational Consortium
- Transition Information Network



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