

# Short Breaks

Statutory guidance on how to safeguard and promote the welfare of disabled children using short breaks





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# Chapter 1. Introduction

## Aims and audience

- 1.1** This statutory document seeks to improve outcomes for disabled children by providing statutory guidance on how to safeguard and promote their welfare through the provision of short breaks.
- 1.2** The intended audience is:
- directors of children's services;
  - managers of services for looked after children, including private, voluntary and public sector providers;
  - commissioners of services for looked after children and disabled children;
  - social workers; and
  - families of disabled children.
- 1.3** The document brings together into one volume all the existing and new statutory guidance relevant to the provision of short breaks for disabled children and their families. The main elements are:
- short breaks and the provision of accommodation;
  - assessment, planning, implementation and review cycle for children using short breaks; and
  - the different settings in which short breaks may take place.
- 1.4** A new duty for local authorities to provide a short breaks service will come into force in April 2011, and there will be a separate set of guidance published to explain how that duty should be met.

## Status of the guidance

- 1.5** The guidance is issued under section 7 of the Local Authority Social Services Act 1970, and therefore local authorities are required to act in accordance with it.
- 1.6** The guidance is issued as part of a suite of statutory guidance which together with the Care Planning, Placement and Case Review (England) Regulations (2010) ('the Regulations') set out how local authorities should carry out the full range of responsibilities in relation to care planning, placement and review for looked after

children, including disabled children where relevant. **Annex 1** shows how these and other documents fit together within an overall framework, the aim of which is to provide looked after children with the most appropriate placement to meet their needs and improve their outcomes.

### Context

**1.7** This guidance is being issued for a number of reasons:

- There has been some confusion in the field about how legislation applies to short break provision and the guidance that should be followed. There has also been a worrying degree of non-compliance with established measures designed to safeguard and promote the welfare of particularly vulnerable groups of children.
- Some of the requirements pertaining to looked after children have been applied mechanistically to short break provision without recognising that it is the parents, not the local authority, who have the main responsibility for looking after their child.
- The pattern of short breaks has changed substantially since the publication of the original Volume 2 of the Children Act 1989 Guidance (see **Annex 1** for current statutory framework). There has been a shift away from longer periods in residential or foster care to shorter periods often in the child's own home or community. Many of these services are now provided through direct payments. *Aiming High for Disabled Children* (AHDC)<sup>1</sup> contributed to this change by requiring a rapid rise in the amount of short breaks available to disabled children and their families.
- Practitioners and families will be aware of the particular vulnerabilities of disabled children. Disabled children are three to four times more likely than non-disabled children to be abused or neglected.<sup>2</sup> They are more susceptible to bullying and to mental health disorders. Their families are more susceptible to higher levels of stress, lower levels of parental wellbeing and poverty. It is therefore particularly important that good services are available to these families and that the services are provided with appropriate safeguards.

**1.8** This guidance describes an approach that focuses on the needs of the child and family and is proportionate, so that the level of administration and safeguards increases in line with the levels of need of the family and the levels of services required to meet these needs. While the needs may be met in different settings with necessary differences in regulation, it will be helpful to providers, commissioners and families for short breaks to be viewed as one coherent package of family support, planned and reviewed as a whole.

**1.9** Some children in need, particularly disabled children, receive such a high level of short break provision that their welfare is appropriately safeguarded by being looked after by local authorities. At the same time many children receive only a small amount of short break provision and this guidance explains how to implement the regulatory requirements in ways which are appropriate and proportionate to the needs of the child and family and their individual package of short breaks.

**1.10** This guidance:

- sets out the circumstances in which it would be expected that a child who receives short breaks would or would not be looked after;
- emphasises the importance of assessment, planning and review to safeguard and promote the welfare of children in need;
- emphasises the role of parents and children in determining the shape of their family support service; and
- refers to the different registration requirements and inspection standards which apply to the different settings in which short breaks might take place.

## Definitions

**1.11** References in this guidance to:

- ‘the 1989 Act’ are to the Children Act 1989;
- ‘the 2006 Act’ are to the Safeguarding Vulnerable Groups Act 2006;
- ‘the Regulations’ are to the Care Planning, Placement and Case Review (England) Regulations 2010 (where other regulations are referred to the full title is used); and
- ‘responsible authority’ is the local authority that is looking after an individual child and the term refers to their functions under Part 3 of the 1989 Act.

**1.12** The term ‘child’ is used as an inclusive term to refer to all 0 to 18 year olds. Where the context specifically relates to older children, the term ‘young person’ is used.

**1.13** The term ‘looked after children’ refers, under the 1989 Act, to all children and young people being looked after by a local authority, namely:

- those subject to care orders or interim care orders (under sections 31 and 38 of the 1989 Act);

- those children who have been placed, or are authorised to be placed, with prospective adopters by a local authority (section 18(3) of the Adoption and Children Act 2002);
- those who are voluntarily accommodated under section 20 of the 1989 Act, including unaccompanied asylum-seeking children. Where children are accommodated under this provision, parental responsibility remains with the parents; and
- those who are subject to court orders with residence requirements (for example, secure remand or remand to local authority accommodation), in accordance with section 21 of the 1989 Act.

**1.14** The local authority has a range of duties to looked after children, including a duty to accommodate and to maintain them.

**1.15** 'Foster carer' refers to a person who is approved as a local authority foster carer who the child is or may be placed with. It includes carers who work for an independent fostering agency and who have been approved by the local authority. This is defined in the Fostering Services Regulations 2002.



## Chapter 2. The provision of accommodation

- 2.1** Short breaks are part of a continuum of services which support children in need and their families. They include the provision of day, evening, overnight and weekend activities for the child or young person, and can take place in the child's own home, the home of an approved carer, or in a residential or community setting.
- 2.2** Most users of short breaks are disabled children and their families but non-disabled children in need may also receive short breaks. This guidance applies to disabled children and other children in need. The breaks usually have two aims: to enable the child to participate in fun, interesting and safe activities; and to provide a break from caring for the parents.

### The legal basis for short breaks

- 2.3** Part 3 of the 1989 Act sets out local authorities' powers and duties to provide support services for children in need and their families. The definition of children in need includes children who are disabled within the meaning of the 1989 Act (section 17(11) states: '... a child is disabled if he is blind, deaf or dumb or suffers from mental disorder of any kind or is substantially and permanently handicapped by illness, injury or congenital deformity...').
- 2.4** Short breaks can be provided by local authorities through the use of their powers under:
- section 17(6) of the 1989 Act, which grants local authorities a power to provide accommodation as part of a range of services in order to discharge their general duty to safeguard and promote the welfare of children in need; and
  - section 20(4) of the 1989 Act, which grants local authorities a power to provide accommodation 'for any child within their area (even though a person who has parental responsibility for him is able to provide him with accommodation) if they consider that to do so would safeguard or promote the child's welfare'.
- 2.5** Local authorities should always be clear about the legal basis on which services are provided. Their decision to provide a short break under section 17(6) or under section 20(4) should be informed by their assessment of the child's needs and should take account of parenting capacity and wider family and environmental factors, the wishes and feelings of the child and his/her parents and the nature of the service to be provided.

**2.6** This guidance amends Local Authority Circular (2003) 13: Guidance on accommodating children in need and their families,<sup>3</sup> by clarifying the decision-making process for local authorities in respect of providing short breaks accommodation to children. This guidance does not amend the Circular for other purposes.

### *Deciding which provision is most appropriate for the child*

**2.7** The key question to ask is how to promote and safeguard the welfare of the child most effectively. The assessment, planning and review processes for children in need may be appropriate or the additional requirements for looked after children may be more appropriate, depending on the circumstances of the child and family.

**2.8** Before making, and when reviewing, a decision about whether to provide accommodation under section 17(6) or section 20(4) of the 1989 Act there should be a careful assessment of the child's and family's needs that addresses the following considerations (see Boxes 1 and 2 for examples):

- particular vulnerabilities of the child, including communication method;
- parenting capacity of the parents within their family and environmental context;
- wider family and environmental factors;
- the length of time away from home and the frequency of such stays
  - the less time the child spends away from home the more likely it is to be appropriate to provide accommodation under section 17(6);
- whether short breaks are to be provided in more than one place
  - where the child spends short breaks in different settings, including residential schools, hospices and social care placements, it is more likely to be appropriate to provide accommodation under section 20(4) (see **paragraph 2.16**);
- potential impact on the child's place in the family and on primary attachments;
- observation of the child (especially children who do not communicate verbally) during or immediately after the break by a person familiar with the mood and behaviour of the child (for example the parent or school staff);
- views of the child and views of parents
  - some children and parents may be reassured by, and in favour of, the status of a looked after child, while others may resent the implications and associations of looked after status;
- extent of contact between short break carers and family and between the child and family during the placement;

- distance from home; and
- the need for an independent reviewing officer (IRO) to monitor the child's case and to chair reviews.

### *When a child is not looked after*

- 2.9** If the child receives a short break under section 17(6), which may include accommodation, the child is not 'looked after' within the meaning of the 1989 Act.
- 2.10** Where the local authority provides a sitter or overnight carer in the *child's own home*, the child is not being provided with accommodation by the local authority and the authority is therefore providing the short break service under section 17.
- 2.11** In either case, however, care that is provided under arrangements made by the local authority and which is provided on a frequent, intensive or overnight basis<sup>4</sup> is regulated activity under the 2006 Act, whether or not it takes place in the child's own home. Independent Safeguarding Authority (ISA) registration will be required for such activity and the local authority must check that the carer is ISA-registered. More information on the phased introduction of ISA registration under the Vetting and Barring Scheme<sup>5</sup> is at **Annex 2**.

### *When a child is looked after*

- 2.12** There will be some children whose package of short breaks will be such that their welfare will be best safeguarded by being a looked after child for the periods in which s/he is away from home i.e. by providing the services under section 20(4) rather than 17(6). This will include children:
- who have substantial packages of short breaks sometimes in more than one setting; and
  - whose families have limited resources and may have difficulties providing support to their child while s/he is away from home or monitoring the quality of care s/he is receiving.
- 2.13** In such cases, in consultation with parents, the local authority may decide to accommodate the child under section 20(4). Providing accommodation on this basis has no effect on the parents' parental responsibility and, of course, parents can remove the child from the accommodation at any time. They retain overall responsibility for the health, education and longer term planning for their child, although they may ask for assistance from the local authority. The assessment may have identified areas where additional support may be helpful.

- 2.14** If the accommodation is provided under section 20(4) for a continuous period of more than 24 hours, then the child is looked after by the local authority for the period in which the child is accommodated. If the child is placed for a weekend short break which lasts from Saturday morning until Sunday evening, this should count as two placement days.
- 2.15** If the child is looked after, then the placement must be a placement with local authority foster parents, in a registered children's home; or in other appropriate arrangements, under section 22C of the 1989 Act. In these circumstances, the placement must comply with the Regulations, which require the local authority to make short and long term arrangements for the child's care (i.e. have a care plan) amongst other matters.

### **Box 1: Example indicating use of section 17**

An assessment of Sara's needs has led to a package of care mostly provided at home but including a planned series of monthly overnight stays in the same residential setting with children her own age. Sara's parents are resilient and resourceful – there are no concerns about their parenting capacity. The expected outcomes from the residential setting are increased social and leisure opportunities for Sara and the opportunity for her parents to spend more time with Sara's twin sister. Sara's parents wish to be in touch with staff by mobile during each overnight stay and to collect her themselves so that they can see how she is in the home.

### **Box 2: Example indicating use of 20(4)**

Amjad is 12 years old and the second of five children. Like his three year old sister he has severe learning disabilities. He has been having increasing outbursts of anger at home. Amjad's father works away from home frequently and his mother becomes quite depressed when the demands of the family get on top of her. She has been asking for residential education for Amjad but he is making reasonable progress in the local day school. A substantial care package involving weekly overnight short breaks with a foster family has been agreed. It is agreed that Amjad will be looked after by the local authority because of the extent of his needs, the amount of time Amjad will be away from home, and the fact that his family's resources are stretched to their limit.

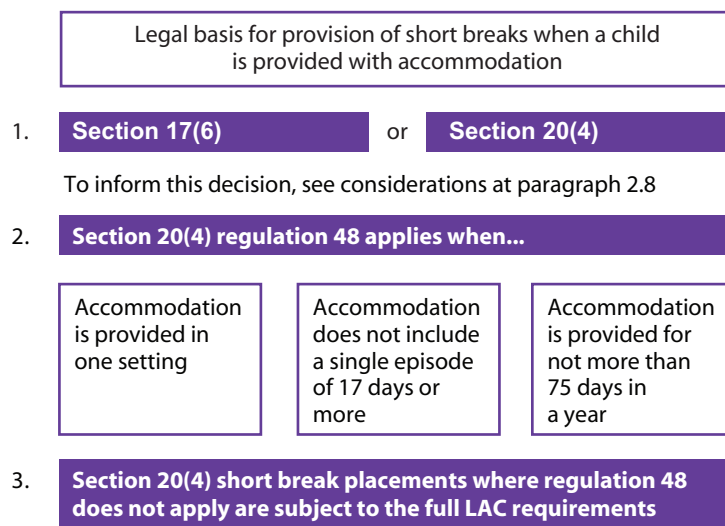
## **Care planning, placement and review for looked after children in relation to short breaks**

- 2.16** The Regulations are modified in their application to some short breaks. Regulation 48 applies where no single placement lasts more than 17 days and the total of short

breaks in one year does not exceed 75 days. Where a child receives short breaks in more than one setting, for example short breaks at a residential school or a hospice in addition to a foster home or children’s home, regulation 48 cannot apply. The modifications will reduce the administrative load and ensure requirements are more proportionate to the needs of children in short breaks.

**2.17** Regulation 48 therefore allows for a series of pre-planned short breaks for a particular child in the same placement to be treated as a single placement for the purposes of applying the Regulations. In these cases, the planning arrangements required by the Regulations are modified in respect of short breaks so that they are more appropriate for situations where the child’s parents are effectively planning for their child’s future, and the child is provided with a series of short breaks as a measure of family support.

**2.18** Where children are away from their parents for longer periods than those described at **paragraph 2.16**, the Regulations will apply with full force to each separate placement. See **Annex 2** for an overview of the care planning, placement and review process. The diagram below shows key steps in the proportionate approach to safeguarding and promoting the welfare of children where they are provided with accommodation.



### *Planning requirements where regulation 48 applies*

**2.19** The purpose of the plan for a child in a short break is substantially different from the plan for a child who is looked after continuously. Where a child receives short breaks the parents have primary responsibility for planning their child’s future, although the family may often seek advice and support from the local authority in meeting their child’s needs. The short break care plan therefore should focus on setting out those matters which will ensure that the child’s needs can be fully met while the

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child is away from his/her parents. The short break care plan should be linked to the child in need plan which should include all the key information about the child set out in **paragraph 3.16**. There should not be separate plans which duplicate information.

**2.20** The short break care plan should include that information which is necessary in order to allow those caring for the child to do so safely and sensitively and to promote good outcomes for the child. The plan must include information about:

- the child's health, and emotional and behavioural development including full details about any disabilities, clinical needs and medications the child may have;
- the child's specific communication needs;
- arrangements for contacting the parents as necessary, in particular, an emergency contact number;
- the child's likes and dislikes with particular regard to his/her leisure interests; and
- how the carers, as appropriate, promote the child's educational achievement (for example, visits undertaken by the carers with the child may complement the child's school learning, or some help with homework may be required especially if the child goes to school directly from the short break before returning home).

**2.21** In addition each short break care plan must include, as appropriate, information to support the placement, as required by paragraph 3 of Schedule 2 to the Regulations. There is not a requirement for a separate placement plan for children looked after in a series of short breaks. The short break care plan must address the following questions insofar as they are appropriate to the placement in question:

- the type and address of the accommodation and the name of the person responsible;
- how long the arrangement is expected to last and steps to take to end or change the arrangements;
- relevant aspects of the child's history and information about his/her religious and cultural background and how such matters affect the child's daily routine;
- any delegation of parental responsibility to the responsible authority or to those who have care of the child, for example in the case of a medical emergency, or participation in specific activities;
- financial arrangements for the placement; and
- when the child is placed with a person who is approved as a local authority foster carer, confirmation of the foster care agreement.

**Box 3: Example of information to support a placement**

Sanjay has profound and multiple learning disabilities and does not use formal communication like speech, symbols or signs. He communicates using facial expressions, gestures and vocal sounds. Sanjay's parents and his learning support assistant have helped to produce his communication passport which includes a video clip showing how he communicates. This is attached to his short breaks plan and is updated at each review. It is crucial that everyone who provides short breaks for Sanjay understands his individual communication. His communication passport is as an invaluable resource.

- 2.22** Depending on a disabled child's specific conditions it will be necessary to undertake detailed risk assessments in respect of moving and handling, behaviour management, and specific training about certain clinical procedures which the parents undertake at home. Detailed information about the child's likes, dislikes and routines can help the carers meet the child's needs effectively and help the child adapt quickly to being away from home. Short breaks will only be successful in providing a positive new experience for the child and a genuine break for the parents if the carers have all the necessary information and training to meet the child's needs fully and safely.
- 2.23** The short break care plan should be signed by the child's parents, by the responsible authority, the provider agency, by those providing the care, and where appropriate, by the child.

**Consultation**

- 2.24** Parents must be fully involved in all aspects of agreeing the short break plan. As far as is practicable, children should also be involved in agreeing the plan. Disabled children use a range of communication methods. It is essential that staff skilled in these different methods of communication ensure that the child's voice is central to the process of assessment, planning and review which should ensure that the child's needs are fully met.

#### **Box 4: Views of children and young people**

The Children's Society asked disabled children and young people about the issues covered by this guidance. They stated clearly that they wanted to be involved in decision making about short breaks. The following is a selection of their comments:

*"It is important that children always have a say and can say yes or no to something"*

*"I'd rather it was me making decisions, my mum doesn't always know what I like"*

*"If we are asked our opinion it might make adults better at what they do"*

*"Children should choose who they go on short breaks with so that they don't have to go with someone they don't like"*

*"Children need to do things with adults they feel OK with"*

*"If you say and get to do what you want to do without parents telling you then you have freedom and space"*

*"If the child chooses what they do, they will enjoy it more"*

*"Kids should choose themselves so they benefit more"*

### **Visits where regulation 48 applies**

- 2.25** Visits to children in short breaks, in accordance with regulation 48, are less frequent. This recognises the fact that children go home after a short period in placement to their parents, who are nearly always best able to see whether the placement is meeting their child's needs or not.
- 2.26** Visits to a child by the representative of the placing authority must take place at regular intervals, be agreed with the child's IRO and the child's parent, and be recorded in the short break plan before the start of the placement. The visitor should usually be a qualified social worker and in every case should be a person with the skills and experience to communicate effectively with the child and fulfil the functions of the visit. The first visit must take place as far as is practicable within three months of the first placement day. Subsequent visits should be at intervals of no more than six months. The visit is an important opportunity for a representative of the authority to ensure that the placement is meeting the child's needs.

### **Review requirements**

- 2.27** In accordance with regulation 48, the plans for children in short breaks are reviewed less frequently than plans for other looked after children. This recognises that the



child is placed for relatively short periods in each episode of short break care. The first review for children in short breaks should take place within three months of the start of their first placement. Subsequent reviews should be at intervals of no less than six months. Local authorities may decide to convene earlier reviews in specific circumstances, for example at the request of the child, parent or carer, or in cases where the child is particularly vulnerable or where a child is provided with a high level of short breaks. The responsible authority should not make any significant change to the care plan unless the change has been first considered at a review. Each review should consider whether the legal provisions under which short breaks are provided are the most appropriate to safeguard and promote the welfare of the child.

### *The role of the independent reviewing officer (IRO)*

**2.28** The role of the IRO for children looked after in a series of short breaks is likely to be more limited than for children looked after longer term. When working with children in short breaks, it is important that IROs are sensitive to the close and active involvement of parents. Given this sensitivity, parents as well as children and young people can highly value their contribution and independent perspective, especially in helping to resolve any difficulties with the placement. IROs have a responsibility to alert the local authority if the placement is not meeting the child's needs.

**Table 1: Providing short break accommodation under the different legal provisions**

<b>(a) Child is provided with accommodation under section 17(6)</b>	<b>(b) Child is provided with accommodation under section 20(4) for a continuous period of more than 24 hours; short breaks are pre-planned and in the same place; no break lasts more than 17 days and the total does not exceed 75 days in one year</b>  <b>&gt;&gt; regulation 48 applies</b>	<b>(c) Child is provided with accommodation under section 20(4) for a continuous period of more than 24 hours; breaks may be with a range of providers or exceed timescales in column (b)</b>  <b>&gt;&gt; regulation 48 does not apply</b>
<p>The child <b>is not</b> looked after.</p> <p>The 2010 Regulations do not apply.</p> <p>Consequently, there is no requirement to appoint an IRO.</p> <p>A child in need plan is required in accordance with the Assessment Framework.</p> <p>As good practice, reviews should be carried out at least every six months, and more often if required.</p>	<p>The child <b>is</b> looked after for the period that s/he is provided with accommodation.</p> <p>The 2010 Regulations apply with modifications in respect of planning arrangements :</p> <ul style="list-style-type: none"> <li>● the authority must make a short break care plan addressing issues key to the safe care of the child; and</li> <li>● an IRO must be appointed.</li> </ul> <p>The first visit must take place within three months of the first placement day or as soon as practicable thereafter. Subsequent visits must be at intervals of no more than six months.</p> <p>The child's case must be reviewed within three months of the start of the first placement and then at intervals of no more than six months.</p>	<p>The child <b>is</b> looked after for the period that s/he is provided with accommodation.</p> <p>The 2010 Regulations apply without modifications in respect of planning arrangements:</p> <ul style="list-style-type: none"> <li>● the authority must make a care plan;</li> <li>● an IRO must be appointed; and</li> <li>● the child's case must be reviewed regularly.</li> </ul> <p>Visits must take place in accordance with regulation 28.</p> <p>The first review must be within twenty days of the start of the first placement, the second no more than three months after the first and subsequent reviews no more than six months after the previous review.</p>
<p>The provision of accommodation under section 17(6) or section 20(4) does not affect parental responsibility.</p>		

## Chapter 3. Assessment, planning and review

- 3.1** Assessment, planning, intervention and review have to take place in real partnership with parents. In short break provision it is invariably parents who have parental responsibility, not the local authority. Social workers, accustomed to working with children who have suffered significant harm, where the local authority may have had to assume parental responsibility, have to remind themselves of the fundamentally different relationships with families for whom short breaks are provided. Parental responsibility is unaffected by local authority provision of short break accommodation under section 17(6) or section 20(4) of the 1989 Act. Arrangements can only be made for a child who is under 16 to be accommodated under these provisions with the parents' consent. Partnership with parents and consultation with children on the basis of careful joint planning and agreement is the guiding principle for the provision of services within the family home and where children are provided with accommodation under voluntary arrangements.
- 3.2** A wide range of children with very different needs require access to short breaks. In general as apparent needs increase, so will levels of assessment and service provisions which are appropriate to meet the different needs. This guidance encourages an approach to assessment which is proportionate to apparent need. Such an approach should avoid unnecessary bureaucracy and intrusion into the lives of families where there is a simple need for a short break. It should also ensure that the child's identified needs are properly met through the provision of services and their welfare is safeguarded and promoted.

### Assessment

- 3.3** Assessment is the first stage in helping a vulnerable child. A tiered approach is appropriate for short breaks:
- i. Provision of information about access to services
    - for example a holiday play scheme for disabled children may ask for basic information from families about their children and how to care for them.
  - ii. An initial assessment
    - to determine the child and family's needs and nature of services required, addressing the dimensions of the Assessment Framework outlined in the *Framework for the Assessment of Children in Need and Their Families*,<sup>6</sup> which can include a carers' assessment.

- iii. A core assessment
  - for more complex situations with more in-depth assessment of the child’s needs in the context of parental capacity and wider family and environmental factors.

### *Provision of information*

- 3.4** For relatively low levels of short break provision, an assessment provided or commissioned by the local authority will often not be necessary. An authority may provide some short break provision for disabled children who have been assessed through other processes, for example, access to existing local health or educational facility, receipt of higher level Disability Living Allowance, or locally agreed criteria. Alternatively, a provider of short break provision may hold straightforward eligibility criteria and a parent with a disabled child may make a request to the provider of the service very much as they would for a non-disabled child.
- 3.5** Under this scenario, parents will provide the information necessary to ensure that the service meets the needs identified by the family. The local authority will wish to ensure through a service level agreement, and appropriate monitoring that the service is meeting the agreed priority needs and the children using the service are achieving good outcomes. But the authority will not need to assess, plan and review the child’s access to such services on an individual basis.
- 3.6** If such arrangements are not meeting the child’s needs, the parents have a right to request a more formal assessment of their family’s needs.

### *Assessment of needs*

#### *i) The Common Assessment Framework*

- 3.7** Where it appears that a child has additional needs which are not being met through existing services, generally a CAF (Common Assessment Framework) will be completed.<sup>7</sup> This information will be the basis for the initial assessment, which should be carried out in accordance with the statutory guidance for the Assessment Framework.<sup>8</sup>

#### *ii) Initial assessment*

- 3.8** An initial assessment is defined as a brief assessment of each child referred to children’s services with a request for services to be provided. This should be undertaken in a maximum of ten working days but could be very brief depending on the child’s circumstances. It should address dimensions of the Assessment Framework, determining whether the child is in need, the nature of any services

required, from where and within what timescales, and whether a further more detailed core assessment should be undertaken.

- 3.9** The Assessment Framework provides a systematic way to focus on the needs of the child within their family and social context. A proportionate approach to assessment is required, making full use of assessments already undertaken for other purposes. The initial assessment will be sufficient in most situations where the trigger for the assessment is a request for a short break.
- 3.10** Parents of disabled children have the right to request an assessment of their own needs.<sup>9</sup> Such a request indicates the need for an initial and possibly core assessment.
- 3.11** If there are concerns that the child is suffering or likely to suffer significant harm the procedures described in *Working Together to Safeguard Children*<sup>10</sup> must be followed. Because of the particular vulnerabilities of disabled children an awareness of safeguarding issues is essential for those working with disabled children and their families.<sup>11</sup>

### **iii) Core assessment**

- 3.12** Where a child's needs and family circumstances are more complex a core assessment will identify what types and level of services will be most appropriate to meet the identified needs.

### **iv) Carers' assessment**

- 3.13** Under section 6 of the Carers and Disabled Children Act 2000 parents of, or persons with parental responsibility for, a disabled child have a right to an assessment of their needs as carers if the local authority is satisfied that the child and his/her family are persons for whom it may provide services under section 17 of the 1989 Act. As outlined in the Assessment Framework:

***'The needs of parent carers are an integral part of an assessment. Providing services which meet the needs of parents is often the most effective means of promoting the welfare of children, in particular disabled children.'***  
***(paragraph 1.29)***

- 3.14** The needs of the parents can be recorded under the dimension of family functioning of the Assessment Framework.
- 3.15** While there has to be a discrete focus on the needs of the carer the outcome of this assessment should be integrated with the broader assessment of the disabled child

and family. Carers' assessments should not be conducted in isolation. **Annex 4** sets out a good practice example of prompts for consideration during an assessment with carers.

## Planning

**3.16** Where a formal assessment has taken place, the assessment should lead to a clear written plan (a child in need plan) that sets out all the services that are to be provided to meet the child's needs. Many families with disabled children receive a range of services to meet their child's needs. Wherever possible there should be a single plan which includes the full range of family support services on a multi-agency basis. The plan will show how the short break will meet the needs of the child and family identified in the assessment. It will:

- have clear and realistic objectives;
- include ascertainable wishes and feelings of the child and views of the family;
- follow consideration of options, including but not limited to direct payments;
- state the nature and frequency of services, as far as is practicable, including health and social care in the same plan, especially if short breaks are provided from different agencies;
- state the child's health, emotional and behavioural development including full details about any disabilities and clinical needs the child may have and medications they may require;
- state the child's specific communication needs, especially for children who communicate non-verbally, and include the child's likes and dislikes with particular regard to leisure activities;
- include the results of all necessary risk assessments which could include, depending on the child's impairment, moving and handling, invasive procedures, and behaviour;<sup>12</sup>
- state contact arrangements for emergencies;
- state commitments of professionals involved;
- refer to or summarise any other important documents about the child's development;
- confirm those caring for the child have been selected following the advice set out in Government guidance on direct payments<sup>13</sup> (see paragraphs 143 to 156);
- outline arrangements to review the plan.

- 3.17** Where, following assessment, it is agreed with the family that the child should be looked after under section 20(4) of the 1989 Act there will be additional requirements about planning and review. In this situation the information compiled for the child in need plan will form the basis for the short break care plan required when a child is looked after under section 20(4) and Regulation 48 applies.
- 3.18** The plan should include all the information necessary to ensure the welfare of the child in the short break. Much information may already be available from a variety of sources including the parent-held child record. The plan should be made available as necessary in accessible formats.

## Review

- 3.19** A case review for a child who is not looked after should:
- ensure the service(s) provided meet the needs identified in the child in need plan and safeguard and promote the welfare of the child;
  - focus on outcomes for the child and family;<sup>14</sup>
  - see the child's development and progress in the round and therefore be a multi-agency review whenever possible (see **Box 5**);
  - include the ascertainable wishes and feelings of the child and the views of the family;
  - take place at least six monthly.
- 3.20** Depending on the level of service for the child and family and the vulnerability of the child, local areas may wish to consider including an element in the review which is independent of the service provider and those with parental responsibility. This would be similar to the role of the IRO in the case of a looked after child. Having an advocate may be particularly useful for disabled young people moving towards adulthood.
- 3.21** It is a minimum requirement to hold reviews every six months for children who receive services under section 17 of the 1989 Act. The needs of the child and family may indicate that a review should take place before the statutory minimum, for example if the child's condition is changing quickly, or there are changed family circumstances, or where there is a complex package of services including direct payments. In each case where children are provided with accommodation under section 17(6) or under section 20(4) the review should consider whether this continues to be the most appropriate legislative basis for the service provided.

- 3.22** Different elements of a child's care package should not require a separate review. Where a child receives short breaks from different providers, for example a hospice or a school, the review should be multi-agency and take a holistic approach to the needs of the child.

### **Box 5: A holistic review**

Rachel is 12 years old and has complex health needs. Rachel has a statement of special educational needs (SEN) and attends a unit at a mainstream school. She spends about two nights a month in a hospice usually with children her own age. Accommodation is provided under section 17(6) of the 1989 Act. With a dedicated assistant she attends the after school club twice a week and has a sitter once a week. Overall the package is meeting the needs of Rachel and her family but there are occasional difficulties with transport between school and hospice or from the after school club. It has been agreed that the SEN review will encompass a review of all aspects of Rachel's care, with representatives from the school, the hospice, the after school club, the local authority, the commissioner from the local primary care trust (PCT) and the family. This will allow a holistic view of Rachel's progress resulting in the meeting of some of the difficulties of co-ordination and efficient use of time for both professionals and family.

- 3.23** A review will usually include a face to face meeting but in some cases, regular review meetings may not be necessary. Generally it should be possible to include a review of short breaks with a review of other aspects of a child's health, education or development, where some of the same people will already be together. In other cases a review might not have to be a meeting.



#### **Box 6: Practice example of short break review**

Raj is a five year old with cerebral palsy, very little speech and severe learning difficulties. He has a statement of SEN and regular reviews of his health and development. He has an occasional sitting service, usually two evenings a month. This arrangement has worked well over the last year. After six months a review meeting took place. As there have recently been meetings to address Raj's overall educational and health development the short break review consisted of the following additional steps:

- the sitting service provided a report of the second six months of the service;
- the social worker spoke with the parents and Raj to discuss whether the service was still working well and how Raj was responding;
- the social worker spoke to the physiotherapist in the child development team who recently visited Raj while the sitter was present primarily to review whether the moving and handling advice needed updating as Raj was getting bigger;
- the physiotherapist was also able to comment on Raj's positive responses to the company of the sitter which confirmed the parents' view.

The social worker recorded these conversations and updated the child in need plan.

- 3.24** In every case it will be important to record the views of those involved in the review, decisions taken and the identity of the persons responsible for implementing them, and amend the child in need plan as necessary. Reviews should take the form of a meeting when requested by the family. In all circumstances a face to face meeting should take place at least once a year.

## Chapter 4. Short breaks in different settings

- 4.1** Following the assessment of the child and family, short breaks can be arranged in a number of settings which are subject to different registration and inspection requirements. In general there are two complementary approaches to ensuring that children using short breaks are safe and well looked after:
- i. the assessment, planning and review requirements for individual children with additional regulatory requirements for looked after children; and
  - ii. the requirements imposed on service providers for the benefit of all children who use their services.
- 4.2** Where short breaks are provided by the local authority, the arrangements are covered by the Vetting and Barring Scheme (VBS). The care of a child under such arrangements will be regulated activity under the 2006 Act if it is frequent, intensive or takes place overnight,<sup>4</sup> and the local authority will be required only to use carers who they have checked are registered with the ISA. Where the care is organised by the family, funded by direct payments, it is still likely to be regulated activity but there is no requirement for ISA registration or for the family to check ISA registration status. Where care is organised by the family and is provided in the course of a family relationship or personal<sup>15</sup> relationship for no reward, the activity lies completely outside the coverage of the VBS.
- 4.3** **Table 2** shows the different requirements in different settings to safeguard and promote the welfare of children.

**Table 2: Outline requirements on settings where short breaks might take place**

Full details are available from the Ofsted and CQC websites.		
Type of service	Registration, inspection, applicable standards	Notes
Holiday play schemes	<p>None for children aged eight years old or more.</p> <p>Play scheme provision for those under eight years old is likely to fall within the definition of early or later years childcare provision under the Childcare Act 2006 with consequent requirement to register unless exemptions apply.</p>	
Individuals who support disabled children in the community	No agency registration requirements unless they provide personal care.	
<p>Child care providers, includes childminders</p> <p>Childminding for five to eight year olds</p>	<p>Registration with Ofsted as a childminder or early or later years childcare provider is required by the Childcare Act 2006 for childcare provided to children aged under eight years old unless exemptions apply.</p> <p>Relevant Regulations are the Childcare (Early Years Register) Regulations 2008 and, for later years, the Childcare (General Childcare Register) Regulations 2008.</p>	In force since September 2008.
Domiciliary care	The Care Quality Commission (CQC) regulates under current domiciliary care national minimum standards (NMS) until October 2010 when new registration requirements come into force under Health and Social Care Act 2008.	Guidance about compliance with the registration requirements was issued by CQC in December 2009. <sup>16</sup>

Hospices	CQC regulates under Independent Health Care NMS, to be replaced from October 2010 by new registration arrangements.	Guidance about compliance with the registration requirements was issued by CQC in December 2009.
Local authority foster care	Fostering services are registered with and inspected by Ofsted. The registration and inspection of fostering services is governed by the Care Standards Act 2000. All providers must comply with the regulations made under the Care Standards Act. The Fostering Services NMS apply to fostering services and must be taken into account as part of Ofsted inspection judgement.	Revised NMS are to come into force April 2011.
Children's homes	Children's homes are registered with and inspected by Ofsted. The registration and inspection of children's homes is governed by the Care Standards Act 2000. All children's home providers must comply with the regulations made under the Care Standards Act. The Children's Homes NMS apply to providers and must be taken into account as part of Ofsted inspection judgement.	Revised NMS for children's homes are to come into force in April 2011.
Residential special schools	Different regimes apply depending on whether the residential special school is maintained, non-maintained or independent.	NMS for residential special schools are under review.

## Providing accommodation in the short break carer's home

- 4.4** Whether the child is accommodated (overnight) in the carer's home under section 17(6) or section 20(4) of the 1989 Act, best practice is that the child should be cared for by an approved local authority foster carer. This does not necessarily mean the child is 'looked after' (that depends on whether accommodation is provided under section 20(4) and the child stays with the carer for more than 24 hours at a time –

see **paragraph 2.8** – but rather that an approved foster carer is the most appropriate person to provide overnight accommodation, away from the child’s home. As noted above, providing care and accommodation on an overnight basis is regulated activity and consequently the carers must be ISA-registered. A further advantage of only using approved local authority foster carers for this activity is that the foster carers will have to be ISA-registered in any case.

## Childminders

- 4.5** Childminders must be registered with Ofsted in the Early Years Register,<sup>17</sup> for those caring for children from birth to the 31st August following their fifth birthday, or in Part A of the General Childcare Register, for those caring for children older than that up to their eighth birthday. There is no requirement to register to provide childcare for a child aged eight or over, although voluntary registration with Ofsted on Part B of the General Childcare Register may be possible. The requirements for early and later years childminders are set out in regulations and include that the person must be suitable to provide early or later years childminding (as appropriate), and that the person must have an appropriate first aid qualification and must agree to an enhanced Criminal Records Bureau (CRB) check for themselves and certain members of their household. Early years childminders must also comply with welfare and learning and development requirements set out in the Early Years Foundation Stage Statutory Framework Document made under the Childcare Act 2006.
- 4.6** A practice has developed in some local authorities of providing accommodation for children in need with childminders who are not also approved foster carers for overnight short breaks. Although there are some similarities in the skills of childminders and foster carers, especially those who provide short breaks, this is not recommended practice. Overnight childminding helps to meet the child care needs of parents working unsociable hours. It is not suitable for children who need local authority services to safeguard and promote their welfare. Childminders with whom the local authority places or wishes to place children overnight (or childminders wishing to take on such work) should be asked to apply for approval as local authority foster carers.
- 4.7** The recruitment of foster carers focuses on the whole family through home study, rather than the individual as in childminding, although Ofsted check all members of the childminding household aged over 16.
- 4.8** Because foster carers look after children on behalf of local authorities, the children they look after tend to have higher levels of needs and they are away from home for longer periods. It is reasonable that there are different arrangements for the assessment and approval of childminders and foster carers. It is not appropriate for

the local authority to provide overnight accommodation with childminders who are not also approved foster carers.

- 4.9** Some local authorities have recruited people to provide care primarily in their own homes during the day or the evening for disabled children. They have used the British Association of Adoption and Fostering (BAAF) Form F for assessment and taken the applicants to the fostering panel for approval. This is an effective process to check the suitability of applicants to care for children but it is not essential unless these individuals wish to provide accommodation for periods of over 24 hours. Local authorities will be able to devise less burdensome but equally effective ways of ensuring that children are fully safeguarded. It is essential that these individuals providing care in their own homes are ISA-registered and subject to full employment and personal checks, as well as safe recruitment methods, and that they are provided with induction and training.

**Box 7: Assessing and approving carers who provide short breaks during the day in their own homes**

One local authority has developed an approach to assess and approve short break carers who provide day care in their own homes. They use a simplified version of the BAAF Form F, carrying out the same checks but completing a simplified assessment that focuses on the strengths and competencies of the prospective carer.

The assessment is approved by the appropriate manager but is not considered by a fostering panel. This approach saves considerable time but still uses an assessment framework that is familiar to the social work staff, while simplifying the approval and support process.

## Providing care in the child's own home or in the community

- 4.10** There are no requirements for agencies to register with Ofsted or CQC if they provide services to support disabled children in the community or in their own homes, unless they provide personal care. Such services are often called befriending or sitting services.
- 4.11** However, as explained above, any form of care or supervision provided for children on a frequent, intensive, or overnight basis is regulated activity under the 2006 Act, unless it is a family arrangement or a personal arrangement for no commercial consideration. Where the regulated activity is provided by an organisation, the organisation must only use ISA-registered carers and must check their ISA registration status.

**4.12** If personal care is provided services must register with the CQC and comply with the relevant standards<sup>18</sup>.

**4.13** The Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 Regulation 2 defines personal care as follows:

- physical assistance given to a person in connection with:
  - eating or drinking (including the administration of parenteral nutrition);
  - toileting (including in relation to the process of menstruation);
  - washing or bathing;
  - dressing;
  - oral care;
  - the care of skin, hair and nails (with the exception of nail care provided by a chiropodist or podiatrist); or
- the prompting, together with supervision, of a person, in relation to the performance of any of the activities listed in paragraph (a), where that person is unable to make a decision for themselves in relation to performing such an activity without such prompting and supervision.

**4.14** The key to providing safe care to children in their own homes is the same as to the provision of safe care elsewhere. It is essential that safe recruitment practices are followed and staff are properly trained and supervised and that the requirements in relation to using ISA-registered staff, and checking their registration status, are complied with.

## Chapter 5. Direct payments

- 5.1** Direct payments to parents of disabled children and to disabled 16 and 17 year olds were introduced through amendments to Part 3 of the 1989 Act to ensure that the same principles and processes to safeguard and promote the welfare of the child apply, whether the needs of the disabled child are met through provision of a service or through direct payments.
- 5.2** Families with disabled children may opt for direct payments rather than receiving a service provided or commissioned by the local authority. They may wish to buy short breaks from a registered provider (for example day care, domiciliary care or overnight child minding) or employ a personal assistant to provide the short break. The full range of short breaks can be provided through a direct payment, including overnight care away from home, providing care in the child's own home or accompanying the child to a leisure activity in the community.

Where a parent opts for direct payments, local authorities retain their responsibilities under the 1989 Act to assess and review the needs of disabled children and their families in the normal way. (Paragraph 163, Guidance on Direct Payments for Community Care, Services for Carers and Children's Services, England 2009)

'Councils should work in partnership with parents to help them make arrangements that are designed to safeguard and promote the welfare of the child. The majority of parents will be both willing and able to do this, but local councils should only arrange a direct payment for a parent of a disabled child when they are satisfied this is the case.' (Paragraph 145)

- 5.3** The Direct Payments Guidance<sup>13</sup> (pages 52 to 56) gives further detail about how to ensure suitable people are employed through direct payments. Where families arrange care themselves by employing carers in a private capacity, funded by direct payments, this will be regulated activity under the 2006 Act if it is frequent, intensive or overnight. However, there are no requirements for the carers to be ISA-registered or for the parents to check ISA registration status, although they may do so if they wish. Local authorities will be under a duty to inform the parents who are using direct payments to employ carers in a private capacity that they are entitled to use the VBS to check the ISA registration status of the carers they employ in this way.



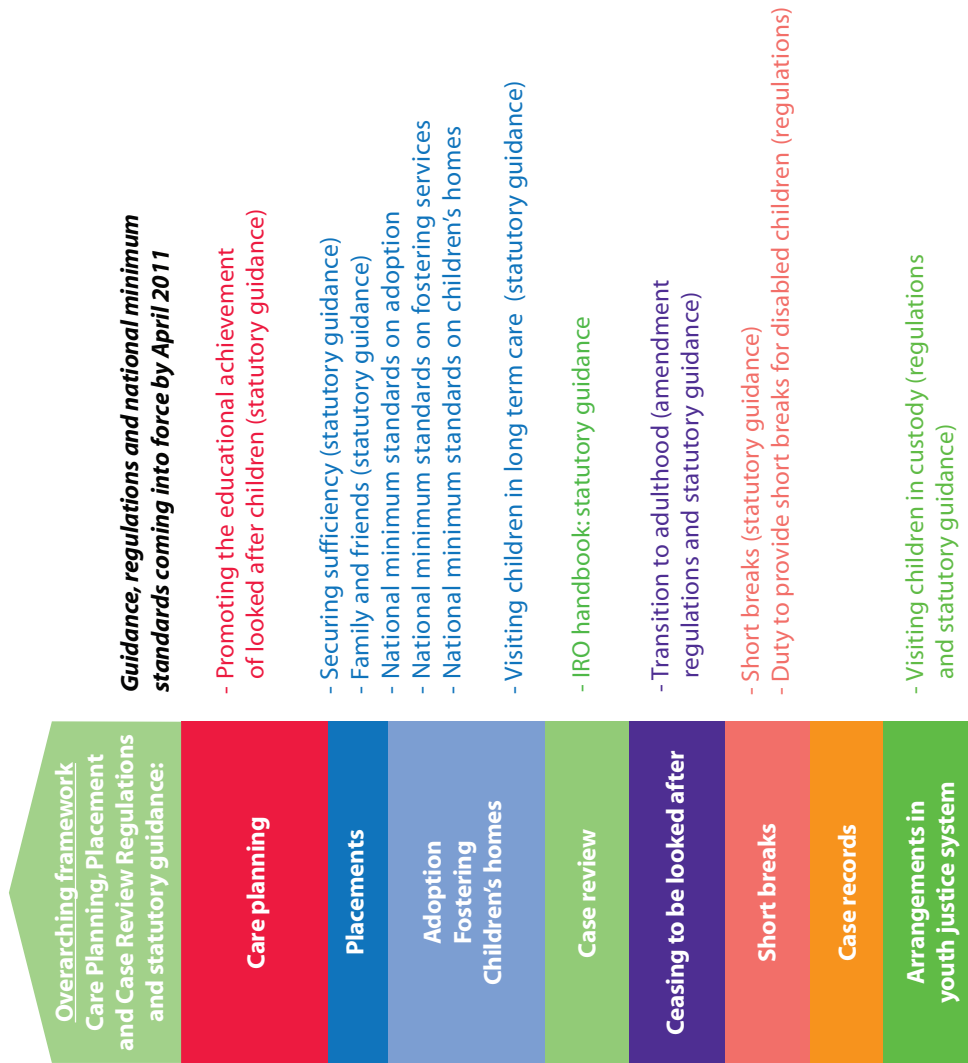
- 5.4** The principles of choice and control about how to meet service user needs have been extended by the introduction of individual budgets.<sup>19</sup> The statutory basis for the social care provision within an individual budget is the same as that for direct payments. The guidance which applies to direct payments therefore also applies to any social care component of an individual budget.

## References

1. See Department for Children, Schools and Families (2008) *Aiming High for Disabled Children: Transforming services for disabled children and their families*. Nottingham: DCSF Publications.
2. Department for Children, Schools and Families (2009) *Safeguarding Disabled Children: Practice guidance*. Nottingham: DCSF Publications.
3. Local Authority Circular LAC (2003) 13, Guidance on accommodating children in need and their families. London: DH.
4. 'Frequent' means activity which is once a week or more often. 'Intensive' means activity which is undertaken on four or more days in a 30 day period. 'Overnight' means activity taking place between 2am and 6am.
5. HM Government (2009) *Vetting and Barring Scheme: Guidance*. London: Home Office.
6. Department of Health et al. (2000) *Framework for the Assessment of Children in Need and Their Families*. London: The Stationery Office.
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10. HM Government (2006) *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children*. London: TSO.
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12. Lenehan C, Morrison J, and Stanley J (2004) *The Dignity of Risk: A practical handbook for professionals working with disabled children and their families*. London: National Children's Bureau.
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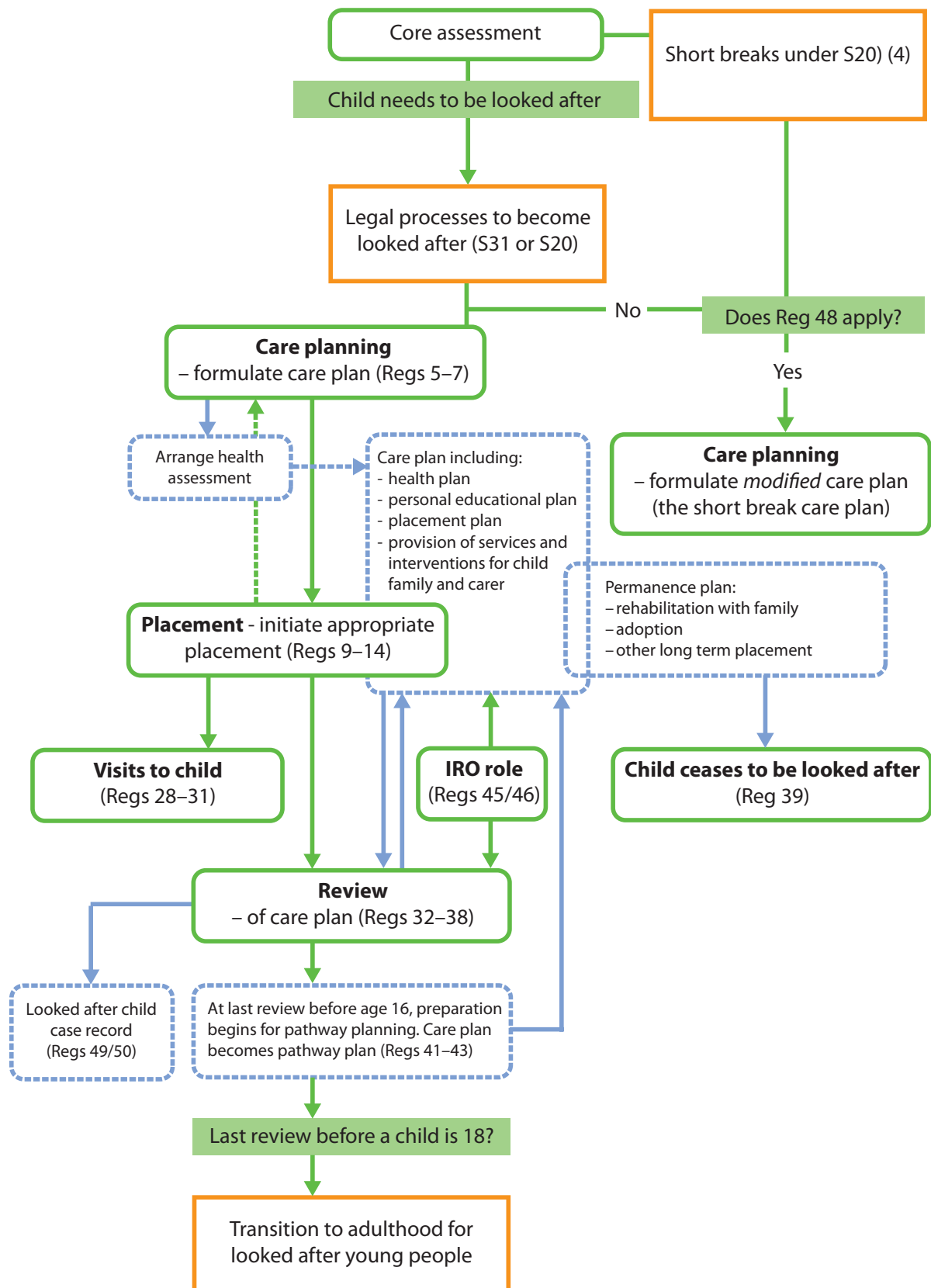
14. See Department for Children, Schools and Families and Department of Health (2008) *Aiming High for Disabled Children: Short breaks implementation guidance*. London: DH.
15. A personal relationship is a relationship between or among friends and includes a friend of any member of the child's family.
16. Care Quality Commission (2009) *Essential Standards of Quality and Safety*.
17. See [www.dcsf.gov.uk/localauthorities/index.cfm?action=content&contentID=17571&categoryID=75&subcategoryID=106](http://www.dcsf.gov.uk/localauthorities/index.cfm?action=content&contentID=17571&categoryID=75&subcategoryID=106)
18. Care Quality Commission (2009) *Essential Standards of Quality and Safety*
19. See [www.dcsf.gov.uk/everychildmatters/healthandwellbeing/ahdc/individualbudgets/individualbudgets/](http://www.dcsf.gov.uk/everychildmatters/healthandwellbeing/ahdc/individualbudgets/individualbudgets/)

# Annex 1. Overview of statutory framework for care planning



**Key supporting legislation:** Children Act 1989, Children (Leaving Care) Act 2000, Adoption and Children Act 2002, Children Act 2004

# Annex 2. Overview of care planning, placement and case review process



## Annex 3. Phased introduction of ISA registration under the Vetting and Barring Scheme

### 26 July 2010 – ISA registration starts for new workers

1. ISA registration begins from 26 July 2010 for new entrants to the workforce or those moving to a new position with a new regulated activity provider. From that point, individuals will be able to submit an application to become ISA registered.
2. Individuals who are part of the existing workforce will not be able to submit an application at this stage. This is so that in the early months of the scheme the Government is able to manage the volumes by restricting applications only to those who are joining the workforce or moving to a new regulated activity provider.

### 1 November 2010 – ISA registration becomes compulsory for new workers

3. From 1 November 2010 onwards it will be mandatory for new entrants to the workforce on or after that date or those moving to work for a new regulated activity provider to be ISA registered before they start work. The requirement does not at this stage apply to 'existing workers' – those who were working in regulated activity with the permission of a regulated activity provider prior to 1 November 2010.
4. There is an important exception for foster carers who are approved by a fostering agency but who are not fostering at the point the requirement comes into force. Where such foster carers are not engaging in fostering at the point the requirement comes into force, but the agency has within the previous year used them as foster carers, they will be treated as part of the 'existing workforce'.

### 1 April 2011 – ISA registration begins for existing workers

5. From 1 April 2011, applications for ISA registration can be made by workers who were in the workforce when ISA registration began for new workers on 26 July 2010. This will begin the managed roll out of the scheme to the entire existing workforce, which is expected to take several years.

## **26 July 2015 – ISA registration compulsory for existing workers**

- 6.** Once the roll out is complete, ISA registration will be made mandatory for the existing workers as well. The total time period expected for roll out, from the start of ISA registration to the completion of the roll out, is five years and consequently the planning date for bringing into force the requirement for existing workforce to be registered is 26 July 2015.

## Annex 4. Good practice example of carers' assessment prompts

These prompts are intended as practice guidance for staff undertaking assessments and reviews of the plans arising from those assessments. The carers' assessment should be a discrete part of any assessment undertaken.

Remember many parents of disabled children see themselves as parents rather than carers and may not identify themselves as a carer.

### *Carers role*

- Describe caring role. Are there any parts carer finds difficult?

### *Breaks in social life*

- How long has carer been caring?
- How often does the carer feel 'off duty'?

### *Physical wellbeing and personal safety*

- Is the carer well? Is the carer receiving any treatment or medication?
- Is sleep affected? If so, how?
- Does caring present a risk to the carer's health, for example moving and handling?

### *Relationships and mental wellbeing*

- Is caring having an impact on relationships with the disabled child, his/her siblings, partner and other members of the family or friends?
- What is the impact on mental wellbeing?

### *Practical and emotional support*

- How much help does the carer get with caring? From whom? Is this enough?
- Are there suitable community resources?



### *Wider responsibilities*

- How many roles does the carer have (e.g. wife, parent, work employee)?
- What impact does this have on caring?

### *Work, education, training and leisure activities*

- What is the impact of caring on work, career and what are the carer's wishes about future work?
- What are the carer's wishes in relation to training, education and leisure?
- What alternative care services would help the carer to take up opportunities to participate in these activities?

### *Future caring roles*

- How does the carer see the future?
- What factors are likely to affect the willingness/ability to care long term?

### *Emergencies/alternative arrangements*

- If the carer suddenly became ill what would happen?
- What networks are there to provide practical support in an emergency?

### *Access to information and advocacy*

- What would make the caring role easier?

### *Accommodation*

- How does the accommodation impact on the tasks of caring?

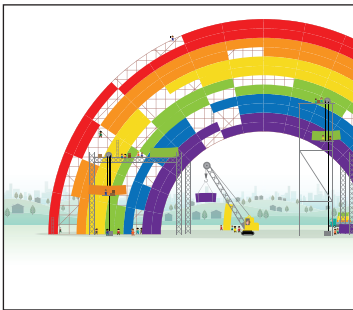
### *Carer's perspective and feelings about role*

- Ask carer to describe how they feel about caring, thinking about culture, gender, age and other factors.

### *Summary of information and analysis*

This should lead to agreed outcomes about services to be provided to the family and an agreed process for review which is an integral part of the assessment and children in need plan.





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