

# 4

## Family Support Services

### References

- ACA:** *Adoption and Children Act 2002*  
**CA:** *Children Act 1989*  
**CDCA:** *Carers and Disabled Children Act 2000*  
**CEOA:** *Carers (Equal Opportunities) Act 2004*  
**CRSA:** *Carers (Recognition and Services) Act 1995*  
**CSDPA:** *Chronically Sick and Disabled Persons Act 1970*  
**DDA:** *Disability Discrimination Act 1995*  
**ECHR:** *European Convention on Human Rights and Fundamental Freedoms*  
**Framework:** *Framework for Assessment of Children and their Families, 2000, Department of Health, [www.doh.gov.uk](http://www.doh.gov.uk)*  
**G&R:** *Guidance and Regulations, Vol. 2 Family Support, Day Care and Educational Provision for Young Children*  
**HRA:** *Human Rights Act 1998*

### Introduction

Local Authorities are under a duty to safeguard and promote the welfare of *children in need*, and to provide family support services to help families to care for such children.

The Children Act sets out the basic legal framework which requires local authorities to provide these family support services. In order to decide which services, if any, should be provided for particular children, the local authority should assess the child and his/her family following guidance published by the Department of Health entitled Framework for Assessment of Children in Need and their Families. We have set out the relevant parts of the legal framework and guidance below.

### What are the legal requirements about family support services?

#### The duty to provide support services:

The local authority is under a general duty:

- to safeguard and promote the welfare of *children in need* in their area, and so far as is consistent with

- that duty,
- to promote the upbringing of such children by their families

S17(1) CA

by providing a range and level of services appropriate to those children's needs.

The services may be provided to the particular child in need or any member of the family if it is with a view to safeguarding and promoting the child's welfare.

### Who is a child in need?

A "child in need" is defined in the Children Act 1989 as a child who is aged under 18 and:

- who is unlikely to achieve or maintain a reasonable standard of health or development without the provision of appropriate services by a local authority; or
- whose health or development is likely to be significantly impaired or further impaired without the provision of appropriate services by a local authority; or
- who is disabled.

S17(3) CA

S17(10) CA

### Definitions

- '*Health*' means physical or mental health.
- '*Development*' is defined as physical, intellectual, emotional, social or behavioural development.
- A child is defined as '*disabled*' if s/he is "blind, deaf or dumb or suffers from a mental disorder of any kind or is substantially or permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed."
- '*Family*' includes any person with parental responsibility for the child and any other person with whom the child is or has been living.

s.17(11) CA

s.17(11) CA

s.17(11) CA

s.17(10) CA

### Interpretation:

#### ***Duty to provide services***

The duty to provide services under s17 CA is a 'general duty' – in other words it is not a duty that can be enforced in relation to a particular child. The local authority instead has a duty to all children in its area, and for this to work, it must be left with broad discretion about how to use resources to best meet the needs of the most vulnerable children and families.

### ***Eligibility criteria***

For this reason, every local authority will have its own policy for identifying children *‘in need’* (often called priorities for service, or ***eligibility criteria***). This should be made available to the public, and is often available on the local authority’s website. Provision of services is usually linked to whether a particular child has a high priority need or a low priority need.

### ***In need***

When identifying children in need, a local authority should use the widest interpretation of the definition and should not restrict their services to part of the definition. This means that services could, in theory, be provided for children in a variety of different circumstances

### **Examples**

Here are some examples of the kind of situations where the local authority could provide support services to vulnerable children and their families:

- Disabled children and young people, and those with significant emotional and behavioural difficulties (including children and young people at risk of exclusion from school).
- Children and young people with caring responsibilities, including young people who are parents.
- Children and young people at high risk of family breakdown for example children whose parent(s) are living on low wages or Income Support, in one-parent families, in overcrowded conditions or in temporary accommodation or large families with limited informal support
- Children without accommodation or living in an unsafe physical environment
- Children in detention

3.61 Framework

# Cases of disability

## Disabled children

In the Children Act, a child is defined as 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 or other such disability as may be prescribed'*

S17(11)CA

The term 'mental disorder' is interpreted broadly to include children suffering from professionally diagnosed conditions such as Aspergers Syndrome or ADHD. This definition does not preclude children whose impairment may be less substantial from being defined as children in need under the other categories set out above.

1.19 Framework

### Assessment

If a child has a disability, or is affected by disability, the local authority has a duty to conduct an assessment of

- the child's needs and
- the child's carer and her/his ability to provide care for the child.

R (G) v Barnet LBC;  
R (W) v Lambeth  
LBC; R (A) v Lambeth  
LBC [2003] UKHL 57;  
2004 1 FLR 454  
S1(2) CRSA  
S1 CDCA

The assessment of the child's needs should follow the Framework guidance (see further below).

A local authority is required to inform carers of their right to an assessment. A carer's assessment should focus on the carer's ability to provide and to continue to provide care for the disabled child.

S1 The Carers (Equal Opportunities) Act  
2004

### Duty to provide services following assessment

Any services provided following assessment should be designed to minimise the effects of disability and to provide children with the opportunity to lead lives, which are as normal as possible.

Part I Sch 2 para 6  
CA

For disabled children, services may be provided under the Children Act 1989 or under s2 of the Chronically Sick and Disabled Persons Act 1970. The local authority should identify which legislation they are providing services under, as the eligibility criteria will be different.

JL v Islington  
(2009) EWHC 458  
(Admin)

Under the Children Act 1989, there is no right to services even where there is an assessed need. Local authority eligibility criteria

will usually determine which level of need will be met by services (see section under 'interpretation'). However, the advantage of the Children Act is that the types of services that may be provided are not limited.

Under the Chronically Sick and Disabled Persons Act 1970, there is an enforceable right to services once a disabled child has been assessed as in need of a particular service that can be provided under the CSDPA. The local authority still has discretion as to how best and cost-effectively to meet the assessed need.

Services available under the Chronically Sick and Disabled Persons Act include

- Practical assistance in the home
- Equipment for a recreational need, such as a computer
- Leisure facilities
- Travel and other assistance
- Home adaptations and disabled facilities
- Holidays
- Means
- Telephone equipment

Where the local authority has agreed to provide services, it also has the power to make direct payments to parents and carers of disabled children to enable them to buy the services they need.

S17A CA

*More detailed information about support and services available for disabled children can be obtained from **Contact a Family**, see details at end of advice sheet*

## Disabled adults

*If a child's parent or carer has a disability*, the local authority should consider whether providing services to the parent through community care legislation would be a more appropriate way of helping the child, and they should not automatically see the child as "in need".

G&R, vol 2, para 2.5

Government guidance makes it clear that an assessment of the needs of a disabled adult should include an assessment of all of his/her needs including those relating to "family and other social responsibilities", which will include parenting tasks. A child in

*Fair Access to Care Services, Department of Health, 2002*

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need assessment should only be undertaken if the services provided by adult services will not meet the child's needs. The same guidance is clear that local authority adult and children's services must work together to help disabled parents/carers and their children.

*Local authorities must make sure that they do not discriminate against disabled people when providing services, and must make "reasonable adjustments" to ensure that disabled people have as much access to services as non disabled people. This means that local authorities must provide interpreters, wheelchair and other access to services such as family centres and ensure that disabled parents, carers and children receive the same level of service as non disabled family members.*

*DDA 1995 s 20,*

*For further information on the rights of disabled parents and carers, see our advice sheet 6*

## **Am I entitled to Family Support Services?**

Services provided by voluntary and community organisations, or by Sure Start, are open to all families living in a certain area or living in certain circumstances. These services can often be accessed directly.

Other services provided by local authorities can only be obtained following **an assessment** by children's services. This must be conducted in accordance with government guidance in the Framework for Assessment of Children in Need, which provides for three different levels of response to a request for help:

Framework for the Assessment of Children in Need and their Families, DoH, 2000

- ❑ **Initial response within 24 hours:** When a child/family seeks help from children's services, they are required to decide within one working day whether they will take no action or undertake an initial assessment. They must inform the child/family of this decision.
- ❑ **Initial Assessment:** An initial assessment should be undertaken within a maximum of 7 working days. The child or young person should be seen as part of this process and the parents and child, if appropriate, should be informed in writing of the decisions made and offered the opportunity to comment on these and correct any inaccurate information.
- ❑ **A core assessment of a child in need:** If a core assessment is carried out, this should be completed within 35 working days of the completion of the initial assessment unless it involves a specialist assessment by another agency.

*3.8 Framework*

*3.9 Framework*

*3.11 Framework*

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The children's services department should work cooperatively with the child and family in undertaking the assessment. This means that they should discuss with you their plans for collecting information, they should explain who they want to see and why, they should tell you how long it will take and how any decisions will be made.

*For further information, see guidance entitled: [What to do if you're worried a child is being abused](#), DoH, 2003*

In most situations children's services will want to obtain information from other agencies. However, children's services and other agencies are under a duty of confidentiality and must obtain the consent of the subject before sharing information. Currently the law only permits agencies to share information without consent if this is necessary to safeguard a child who is at risk of significant harm, or it is in the public interest. All agencies working with children should have policies about sharing personal information. You can ask to see these if you wish.

*For further information see [www.everychildmatters.gov.uk/delivering-services/information-sharing/](http://www.everychildmatters.gov.uk/delivering-services/information-sharing/)*

## **What does the assessment cover?**

At whichever level, the assessment will focus on three areas:

- the child's developmental needs;
- the parents' or care givers capacity to meet these needs (including any services that might be needed, for example, help to disabled parents in their parenting role) ;and
- the wider family and environmental factors.

2.1 Framework

The local authority should also:

- consider all the child's needs including health, development, disability, education, religious persuasion, racial origin, cultural and linguistic background;
- provide an interpreter if the family's preferred language is not English or they have other communication difficulties; and
- should work cooperatively with the child and family in undertaking the assessment. This means that they should discuss their plans for collecting information with the child/family, they should explain who they want to see and why, they should tell you how long it will take and how any decisions will be made.
- Where the assessment is of the needs of a disabled child, communication with the child may require greater preparation and more time.

2.2 Framework

3.32-3.36 Framework

3.41 Framework

The local authority should inform the family in writing of the outcome of any initial or core assessment of need, and what will happen next. If services are to be provided, they should draw up a plan of how this will be done.

3.13 Framework

**Note: The Framework for Assessment is issued under s.7 Local Authority Social Services Act 1970 (LASSA) which: “requires local authorities in the exercise of their social services functions to act under the general guidance of the Secretary of State. As such this document does not have the full force of statute, but should be complied with unless local circumstances indicate exceptional reasons which justify a variation” (p.viii).**

A failure to follow the Framework guidance when carrying out an assessment may make it unlawful. An unlawful assessment can be challenged by judicial review (see below)

*R(AB&SB) v  
Nottingham City  
Council [2001] EWHC  
Admin 235*

## Am I entitled to an assessment for support?

Anyone who is looking after a child under 18, or has parental responsibility for a child, is entitled to **ask** for an assessment if s/he thinks the child may be in need.

Children who are old enough (there is no fixed age) are also entitled to ask for an assessment of their own needs.

Where it appears that the child is “in need”, the local authority have a duty to carry out an assessment of their need for services

If an assessment is carried out, it must follow the guidance set out in the Framework.

In any event, upon receiving the request for help from the child/family, the local authority should respond within 24 hours to say whether or not they will carry out an initial or full assessment.

**Note:** Some families who are subject to immigration controls (this includes asylum seekers) may not be entitled to all family support services.

*R (G) v Barnet LBC;  
R (W) v Lambeth  
LBC; R (A) v Lambeth  
LBC [2003] UKHL 57;  
2004 1 FLR 454;*

*Framework for the  
Assessment of  
Children in Need and  
their Families 2000*

*For further  
information See page  
6*

*For further  
information, see FRG  
Advice Sheet 5*

## How can I help with the assessment process?

When you seek support from children’s services, it may help if you and your family can get together and discuss the type of help and services you might need. Some people find it helpful to write down the help that they want and reasons why. You can give this to the local authority and encourage them to use it as the basis for any assessment they undertake.

## What happens if a child is assessed as in need?

Once the local authority has made a decision about whether the child is in need, it should, in conjunction with the child and family, make a plan to address the child’s needs which will include the provision of appropriate services. The plan should set out:

- The types of family support services to be provided and by

whom

- The length of time the service will be required
- The objective of each service
- What other service providers are expected to do
- How and when the plan will be reviewed.
- Specify any areas of disagreement and arrangements for dealing with problems.

It is good social work practice for the plan to be provided in writing and signed by both parties. Although families do not have the right to insist on a particular service being provided, children's services departments are expected to work with families towards an agreed plan in order to carry out their statutory duties.

*Framework for the  
Assessment of  
Children in Need and  
their Families, DoH,  
2000*

## **Which family support services may be available?**

Many different services may be provided to help families care for their children and to prevent family breakdown.

All local authorities are under a duty to publish information about the services available and this information should be translated into different languages, be sensitive to cultural needs and made available to people with a sensory disability.

The level and type of services available will vary according to the needs assessed in each individual case and, in practice, the resources of the local authority. However the latter should not be a reason for refusal of services and the range of services generally available should include the following:

- ❑ **Day Care** – there should be a variety of day care services so that there is some choice for children in need. This range could include day nurseries, playgroups, sponsored childminding, and out of school clubs.
- ❑ **Help provided in the family home** – this could include befriending schemes which recruit and train volunteers to help parents in the home. These are often provided by voluntary organisations, such as Homestart and Family Action. This type of service can also be provided by the local authority in the form of a family aide worker who give families practical help and support at home.
- ❑ **Parenting Skills Programme** – these can be provided in

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a number of different settings, such as family centres and range from self-help/ self support groups to sessions which are run like an evening class. Parent and carers who would like help with their parenting will need to consider which approach best suits their needs.

- **Family Centres** –there are many different types of family centres, ranging from those described as therapeutic, providing in depth help to families, to those that are community based and self help in nature.
- **Counselling** – counselling for adults and children can be provided by family centres, child guidance clinics and specialist counselling organisations.
- **Advice and guidance** – this can be provided in a variety of places, from family centres to specialist organisations. Parents will be provided with advice about benefits, work and childcare, and may be offered training and support to work.
- **Promoting contact for children away from home:** The local authority must take steps to enable a child in need who is living apart from his or her family to resume living with their family and to promote contact between them provided it is consistent with the child's welfare. Sched 2, para 10, CA
- **The provision of accommodation to an adult in order to protect a child:** Where a child is living in premises with someone who is alleged to have harmed the child, and that person is willing to move out, the local authority may assist that person to obtain alternative accommodation, for example in temporary accommodation, whilst enquiries are carried out. This would mean that the adult against whom the allegation had been made would move out of the home rather than the child. Sched 2, para 5, CA
- **Practical assistance, including accommodation and even cash under s.17:** Local authorities may provide families with practical assistance, such as help to buy essential equipment for children, or for food and other necessities, and even help with housing costs or some other form of accommodation. In exceptional circumstances they may also provide cash help. Each local authority will have its own guidance about this form of s.17(6) CA

help.

- **Respite accommodation under s17:** Typically this service is only available to disabled children, but local authorities can provide respite accommodation for any children in need who would benefit from this.

## **When can a child in need be voluntarily accommodated by the local authority?**

Accommodation of children by the local authority should be seen as a service to support parents. The framework for providing accommodation in section 20 is as follows:

- Every LA *shall* provide accommodation for any child in need within their area who appears to them to require accommodation as a result of:
  - there being no person with parental responsibility;
  - the child being lost/abandoned; or
  - the person who has been caring for him being prevented (whether or not permanently and for whatever reason) from providing him with suitable accommodation or care.
- Accommodation may not be provided where any person with parental responsibility for the child, or anyone with a residence order, who can provide accommodation, objects.
- There is no notice period to remove a child from accommodation.
- A person with parental responsibility may not remove a child who is over 16 from accommodation if that child agrees to being accommodated.
- When a child is provided with accommodation s/he is 'looked after', which means that all the duties on the local authority in relation to looked after children apply.

s.20(1) CA

*For further information about the circumstances when a child is said to be 'provided with accommodation' see FRG Advice Sheet 12*

s.20(7) & (9) CA

s.20(8) CA

s.20(11) CA

*For further information about duties to looked after children see FRG Advice Sheets 11*

### **Accommodation for homeless children:**

- Local authorities may provide children who are homeless with accommodation but they do not have to in all

circumstances.

- If, following an assessment the child is found to be in need of accommodation for one of the reasons set out above, the local authority must provide accommodation.
- Where the local authority does provide such accommodation, this would normally be under s.20 (above) unless, **in exceptional circumstances**, the assessment of need indicates that the child's need for accommodation is best provided for under s.17(6) (which means s/he will not be 'looked after'). However, whilst such an assessment is being carried out s/he will be accommodated under s.20.

R(G) v Southwark  
(2009)2FLR 380;  
R (M) –v- LB  
Hammersmith and  
Fulham [2008] 1 FLR  
1384

H, X & B v  
Wandsworth LBC,  
Hackney LBC &  
Islington LBC (2007)  
EWHC 1082 (Admin)  
R(G) v Southwark  
(2009)2FLR 380;

LAC (2003)13

## Can the local authority charge for family support services?

- A local authority may charge the parent/carer for services provided, but they cannot charge for advice, guidance and counselling.
- Where a local authority is considering whether or not to charge a family for services, they must take account of the financial position of the family, and can only charge what is 'reasonable'. In order to establish what is reasonable the local authority must look at the weekly income and expenditure of the family and only ask for a contribution towards the service out of any income that is left.
- If the family receives Income Support, income based Job Seeker's Allowance, Child or Working Tax Credit or Disabled Persons Tax Credit the local authority cannot charge the family for any services.
- If a child is accommodated and therefore looked after, the parents or the child if s/he is over 16, are liable to contribute to the cost of his/her maintenance, subject to means testing, as above.

Section 17 (7), (8)

s.17 (9) CA

Schedule 2, para 21

## What can you do if you are refused the services you need or are unhappy with the outcome of the assessment?

You will need to ask the local authority why they consider you are not entitled to family support services, or why they aren't providing you with the services that you feel you require. Look at their stated priorities to see how they match up with your needs. If you feel that you fit within those priorities, you need to make this clear to them.

Sometimes local authorities refuse to provide services unless the child's is the subject of a child protection plan. This is very bad practice and has been disapproved by the government. If you are told this you should make a complaint or even consider judicial review – see below.

Other course of action are as follows:

- ❑ **Contact other service providers:** You can approach local voluntary agencies and children's centres to see if they are able to provide you with a service that meets your needs. Details of these organisations can be found at your local library, the town hall, or CAB
  
- ❑ **Family Group Conference (FGC):** You can ask for an FGC which is a meeting that brings the child's whole family together to make a plan for the child. It is sometimes used where there are child protection concerns running alongside the family's need for support services. The role of the professionals is to provide you with information about their concerns (if any) and local resources. The family then uses this information to make a plan, as a group, without professionals being present. The local authority may agree the plan unless it does not provide protection to the child/children.
  
- ❑ **Complaints:** You can make a complaint to the local authority about the services you receive/the lack of services.

Child Protection:  
Messages from  
Research, DoH, 1995

*See advice sheet 9  
on child protection*

*See advice sheet 3  
on family group  
conferences*

*Section 26 CA. See  
also FRG Advice  
Sheet no 31 on  
complaints.*

- **Judicial Review** - In exceptional circumstances it may be appropriate to consider challenging the decision of a local authority by taking legal action. This is a process whereby the High Court will review the decision, action or inaction by the authority to see whether or not the authority has acted lawfully. The most common grounds for judicial review are:
  - The decision is unlawful;
  - The authority has misunderstood the relevant law;
  - The decision is unreasonable given the facts;
  - The decision shows an improper exercise of discretionary power – for example the authority fetters its discretion by applying a blanket policy to all families;
  - The authority has taken into account an irrelevant consideration;
  - The authority acts in a way which is in breach of Human Rights law.

Judicial review is a discretionary remedy which is very expensive and has cost implications. It is therefore vital that you consult a solicitor specialising in this area of law before embarking on a judicial review. The solicitor will help you to establish whether or not you qualify for public funding (formerly legal aid). In addition there are strict time limits for judicial review. The action must be brought as soon as possible after the decision is given by the authority and in any case within 3 months of the decision.

## What about my Human Rights?

### Introduction

The Human Rights Act 1998 (HRA) came into force in October 2000. The main effect of it is that it incorporates into domestic law the European Convention of Human Rights (ECHR). More specifically, it is now “unlawful for a public authority to act in a way which is incompatible with a Convention Right”, unless they are following legislation and have no discretion to do otherwise.

S6 HRA

### Local Authority duty to respect human rights

Generally, any decision made by a local authority must be compatible with a person’s rights under the Convention. The ones

which are most relevant to decisions about the provision of family support services are:

- *Article 6*: the right to a fair trial in relation to decisions which affect a person's civil rights; and
- *Article 8*: the right to respect for privacy and family life. This is not an absolute right. A local authority may interfere with family life provided that it is "necessary in a democratic society for the protection of health or morals, or the protection of the rights and freedoms of others", and that the interference is proportionate in the circumstances of the case. Article 8 also protects procedural rights – so decisions made by the local authority about your family must be made in a fair way.

Both children and adults benefit from these rights. If decisions made about the provision of services to a family are not compatible with the child or parents' rights, it is possible for the victim (i.e the person whose Convention rights have been breached) to apply to the court for an injunction to stop the breach, and/or for damages. If care proceedings are brought by the local authority, it is possible for the parents and/or the child to rely on their rights in support of their case in those proceedings.

## Where to get more information

- You can telephone Family Rights Group's advice service to discuss your case with an adviser, or visit our website to find our other advice sheets.

Freephone 0808 801 0366  
10.00am – 3.30 pm Monday-Friday  
or email [advice@frg.org.uk](mailto:advice@frg.org.uk)  
[www.frg.org.uk](http://www.frg.org.uk)

- You can contact a solicitor who specialises in childcare law to help you negotiate with the local authority. If you are on a low wage or receiving benefits, you should be able to get free advice under the legal advice and assistance scheme.

Call Community Legal  
Services Directory  
0845 608 1122, or  
see  
[www.lawsociety.org.uk](http://www.lawsociety.org.uk)

The following organisations also provide support to families across the country. You can contact the head offices listed below for details or local services.

**Barnardo's**

Central Office  
Barkingside, Ilford  
Essex IG6 1QG  
Tel: 020 8550 8822  
[www.barnardos.org.uk](http://www.barnardos.org.uk)

**Family Action**

501-505 Kingsland Road  
London  
E8 4AU  
Tel: 020 7254 6251  
[www.family-action.co.uk](http://www.family-action.co.uk)

**Action for Children**

85 Highbury Park  
London E8 4AU  
Tel : 020 7704 7000  
[www.actionforchildren.org.uk](http://www.actionforchildren.org.uk)

**Homestart UK**

2 Salisbury Road  
Leicester LE7 7QR  
Tel: 0800 068 6368  
[www.home-start.org.uk](http://www.home-start.org.uk)

**Parentline Plus**

520 Highgate Studios  
53-79 Highgate Road  
London NW5 1TL  
24 hour helpline: 0808 800 2222  
[www.parentlineplus.org.uk](http://www.parentlineplus.org.uk)

**Contact a Family**

209-211 City Road  
London EC1V 1JN  
Tel 020 7608 8700  
Helpline 0808 808 3555 or  
Textphone 0808 808 3556  
Mon-Fri 10am-4pm  
& Mon 5.30-7.30pm  
e-mail: [info@cafamily.org.uk](mailto:info@cafamily.org.uk)  
[www.cafamily.org.uk](http://www.cafamily.org.uk)

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