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Know your rights: Short breaks

What are short breaks?

The term short breaks (also known as respite) is used to describe time off that carers of a family member with a learning disability – and the person with a learning disability themselves – can get from their local authority. Short breaks are one type of social care service and come in different forms: some families access short breaks or respite centres, others are part of schemes involving placements with families or receive direct payments to arrange their own support.

Short breaks are an essential part of the support needed by the whole family; providing much needed time off for the carer to rest and focus on other activities and family members, and a chance for those they care for to spend time with others and take part in different activities. If you care for someone with a learning disability, it is important for you to know what your rights are when it comes to getting short breaks. Below are some of your key rights.

Your right to an assessment

Any carer who appears to need support should be offered an assessment by their local authority. This applies to both carers of disabled children and adults.

If you are the parent carer of a disabled child, then your rights to assessments and services are set out in the **Children and Families Act 2014**. As a parent carer of a disabled child, and therefore of a 'child in need', your local authority must assess you if you appear to need support or if you request an assessment. This is called a parent carers needs assessment.

If you are a carer for an adult (someone 18 years and over) then your rights to an assessment and support are set out in the **Care Act 2014**. You have a right to an

assessment no matter how much or what type of care you provide, your financial situation or your level of need for support. Normally a family carer will live with the person they are caring for, but you don't necessarily have to in order to get an assessment.

You can have an assessment whether the person you care for has had a needs assessment or not. Even if the person you care for has had an assessment of their needs and been found not eligible for support, you still have the right to a carer's assessment. A combined assessment of your needs and the needs of the person you care for can be carried out at the same time, if you and your family member are both happy with this.

A carer's assessment is an opportunity to discuss with your local authority what support or services you need. The assessment will look at how caring affects your life, including your physical, mental and emotional needs, and whether you are able and willing to carry on caring.

As a carer you should be offered an assessment by the relevant social services department (adult or children's) in your local authority. If you have not been offered one, or have had one previously but feel you need another due to a change in your circumstances or caring responsibilities, you should contact them by phone, in writing or online, and ask for a carer's assessment or reassessment.

Your right to access short breaks services

Carers of adults

For the first time, under the Care Act local authorities have a duty to meet the eligible needs of carers who care for adults. This is really important, as it means more carers have a right to support to help them maintain their own wellbeing whilst undertaking their caring responsibilities.

If you care for an adult, the way eligible needs are determined has changed. The Care Act introduced **national minimum eligibility criteria**. This means there is now a national minimum threshold at which disabled adults and their carers are entitled to support. This replaces the old 'FACS' criteria of low, moderate, substantial and critical.

The minimum threshold is based on identifying how a person's needs impact on their ability to achieve certain outcomes. As a result of your support needs as a carer, you must be **unable to do any one** of the following things:

- Carry out any **caring responsibilities for a child**
- **Provide care to other persons** for whom you provide care
- Maintain a **habitable home environment** in your home, whether or not this is also the home of the person you care for
- Manage and maintain **nutrition**
- Develop and maintain **family or other personal relationships**
- Engage in **work, training, education or volunteering**
- Make use of necessary facilities or services in your **local community**, including recreational facilities or services
- Engage in **recreational activities**.

If you are unable to do any one of the above things and this has a **significant impact** on your **wellbeing**, then you have an eligible need for support.

The provision of 'short breaks' is something that would usually be written into the care and support plan of the person you care for rather than your support plan, as the actual service is provided to the person with care and support needs. So as well as you having a carer's assessment, the care and support plan of the person you care for should be reviewed, so that the provision of short breaks is included in their care and support plan.

Carers of children

If you are a parent carer of a child, your assessment must look at **your wellbeing as a carer** and the **welfare of the disabled child and any other child** for whom you have parental responsibility.

Following the assessment, the local authority must then decide whether you need support, whether your child needs support, and if so whether those needs can be met. Support provided to you as a parent carer can be included in your child's EHC plan, if they have one. This ensures that your needs as a carer and your child's needs are looked at together, and all your support is listed in one place.

What if my support is cut?

If you have been deemed eligible for, and provided with, short breaks, this support should continue unless your needs change. If your council closes a centre your family member attends or makes any cuts, the level of support you receive should not be reduced. **It is unlawful for the council to reduce the amount of support you get without reassessing you as needing less support.**

However, we know that short breaks services have been heavily cut in recent years, and many people with a learning disability and family carers have had their level of short breaks support reduced. In particular, many local authorities have closed short breaks or respite centres as building-based services can be more expensive than other forms of support. This can severely impact on families if the level and type of support offered in short breaks centres cannot be provided elsewhere.

If significant changes are being made to your short breaks services, for example a centre is closing or charges are increasing, you will almost certainly have the right to be consulted on those changes. This means the council has to hold a **public consultation** and engage anyone who would be affected by the changes before the decision is taken to change the service.

Not only this, but consultations must give enough time and information for respondents to give an informed response, and the council must give genuine consideration of all responses. If you believe your council did not consult when they should have done, or did not carry out a proper consultation, they could have broken the law and you could challenge this.

How do I know what short breaks are available?

Local authorities must provide accurate information on what services are available to people with a learning disability and families locally. This information should be readily accessible on the local authority website and made available by request.

Carers of adults

The Care Act places a duty on local authorities to make information and advice available for **all** people in its area, whether they have eligible care needs or not.

This includes:

- information about how the local **care and support system works**
- how people can **access care and support services** (such as short breaks)
- what **types of care and support** are available, and the choice of providers.

Information and advice must be **open to everyone** who would benefit from it. The local authority should make sure that websites meet accessibility standards, printed materials are clear and in plain English, and materials are adapted as necessary e.g. easy read versions are available.

Carers of children

There is an even stronger duty for local authorities to make information about services available to parent carers of children.

The Children and Families Act requires all local authorities to publish and maintain a wide range of information about all the support and facilities that a council expects to be available locally for children and young people with special educational needs and disabilities (SEND) and their families. This is called the '**local offer**'.

The local offer should include, amongst other things, information on **education, health and social care support** for children and young people aged between 0 and 25. The local offer is not a guarantee that a particular service will be available, but it should be a useful guide to what you can expect to find in your area, and how you can access a particular service.

The information you should be able to find in your local offer includes social care support, including **short breaks, leisure activities, and childcare**. It should say who a particular service is for, how to apply, and how decisions are made about who gets that service. The local offer should also include information about how families can ask for social care assessments and information about making complaints about services.

In a separate duty, **councils must provide a range of short breaks** and produce a **list of all short breaks** in the local area. This list will usually form part of the local offer.

The local offer doesn't just have information on services within that particular local authority, it must include **services outside the local authority area** which children, young people and parents might use. For example, a specialist short breaks facility in another local authority area.

One crucial thing to know about your local offer is that **children, young people and parent carers must be involved in developing the local offer and it should reflect what they need**. The local offer must be reviewed regularly to make sure it is up to date and still meets the needs of families in the area, and they should involve families in this review process. The local authority must make public what children, young people and parents tell them about their local offer and say clearly what they will do about the feedback they receive.

The local offer should be **clear** and **easy to find**. You should be able to find your local offer on your local authority's website by searching 'local offer'. Your local authority must make sure that everyone has access to the local offer and should provide it in a different format if you need this.

Further information

If you want more information you can ring the **Mencap Direct Helpline**. The Helpline is an advice and information service for people with a learning disability, their families and carers. To speak to the Helpline please call 0808 808 1111.

Mencap also has a number of other factsheets that you may find useful, including on:

- Eligibility
- Consultations
- Charging

To request any of these or a *Don't cut us out!* campaign guide, please contact the Mencap publications team at publications@mencap.org.uk or 0207 696 6902.