

Children's Social Services Assessments and Support

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We will look at...

When should services be provided?

What type of help is available?

How to get support?

Assessment process

Care plans

Direct payments

Transfer to adult social services

How to challenge decisions

Case studies

Help from Social Services

- Social Services are there to help.
- Common misconception that their only role relates to child protection and taking children into care. Not the case.
- Generally there to provide assistance when needed.

Who should receive support

- Support available for **'children in need'**
- Legal duty is set out at Section 17 of the Children Act 1989
- Every local authority is under a duty to safeguard and promote the welfare of 'children in need' by providing a range and level of services appropriate to those children's needs.
- A child will be in need if:
 - (a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services
 - (b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of services; or
 - (c) he is disabled
- To summarise, social services will be under a legal duty to provide services if a child:
 - Is disabled (this will be the case if they have a long term condition that makes it more difficult for them to carry out normal day to day activities); or
 - Their health or development would be placed at risk without services being provided

Summary of process

- The primary duty on children's services authorities is to assess the needs of children in need,
- Once needs have been assessed, the LA has a duty to provide services to meet the assessed needs if certain conditions are met, in general terms where it is deemed 'necessary' to do so. In deciding whether it is 'necessary' to meet a child's needs, a local authority is entitled to take account of the resources available to it – but once it is accepted that it is 'necessary' to meet a particular child's needs then they must be met. At this stage, cost is only relevant to the extent that needs may be met in the most cost-effective way.
- If the outcome of the assessment is continued social care involvement, there must be a support plan setting out what services are to be delivered, and what actions undertaken, by whom and for what purpose.

Type of services

- Services that may be provided include:
 - Adaptations to the home
 - Overnight respite care
 - Support with personal care and daily living from a care worker
 - Short breaks
 - Specialist equipment
 - Help accessing the community or attending social activities outside of the home
 - Help accessing specialist education/health services
 - Direct payments

Where to look

- Children Act 1989
- Key guidance is *'Working Together to Safeguard Children'*, March 2015
- Sets out in detail the process that local authorities must follow.

Requesting assessment

- First thing to do is contact Social Services if parent considers support needed. Parent can do this themselves usually – but sometimes might be appropriate for advisor to do it for them.
- Obligation for social services to respond to the referrer within **one working day** of receiving the referral to let them know what action they propose to take. – Para 58 of Guidance
- Can be made orally or in writing. No set format but recommend making a written request where possible and keeping a copy of the letter so have a clear record of when the request was made.

Assessment Process

- Once a referral is received by social services, there is a legal duty on them to assess the child's needs.
 - Paragraph 40 of the Guidance confirms that

“Each child who has been referred into local authority children’s social care should have an individual assessment to respond to their needs and to understand the impact of any parental behaviour on them as an individual”

- Local authorities should have their own protocol setting out how they will respond to referrals.
- Assessment should take no more than 45 working days to complete. – para 60
- Also note para 61

“Whatever the timescale for assessment, where particular needs are identified at any stage of the assessment, social workers should not wait until the assessment reaches a conclusion before commissioning services to support the child and their family. In some cases the needs of the child will mean that a quick assessment will be required”

Carer's assessment

- Should be built into the 'child in need' assessment
- But can request separate parent carer assessment
- CA 1989 ss17ZD and 17ZE12 of the Children Act 1989 oblige local authorities to assess parent carers on the 'appearance of need' – i.e. if it appears to a local authority that a parent carer may have needs for support (or an assessment is requested)
- In addition, carers who are providing “a substantial amount of care on a regular basis” can request a separate 'carer's assessment' if they wish – S1(2) of the Carers (Recognition of Services) Act 1995 Carers and Disabled Children Act 2000 (if a parent).

What should they do during the assessment

- The guidance states that the purpose of the assessment is to:
 - Gather information about a child and family
 - Analyse the child's needs and the nature of any risk or harm
 - Decide whether the child is in need; and
 - To provide support to address those needs

...and that a good assessment should investigate:

- The child's needs
- The parents' or carers' ability to respond to those needs
- The impact and influence of wider family, community and environmental circumstances

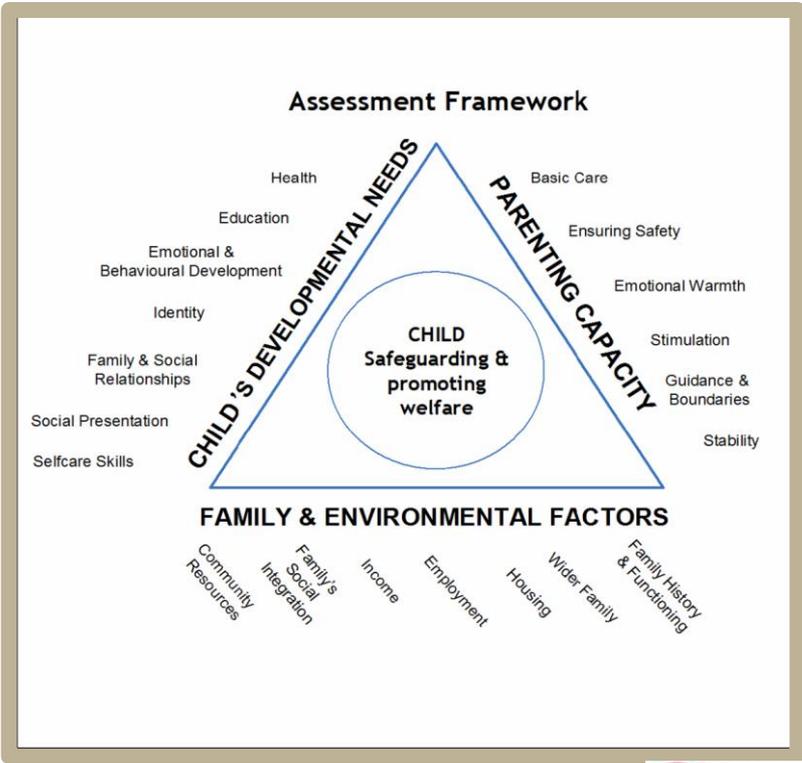
Assessment

- Para 35 of Guidance
- High quality assessments:
 - are child centred. Where there is a conflict of interest, decisions should be made in the child's best interests;
 - informed by evidence;
 - focused on action and outcomes for children;
 - holistic in approach, addressing the child's needs within their family and wider community;
 - involve children and families;
 - build on strengths as well as identifying difficulties;
 - integrated in approach;
 - lead to action, including the provision of services;
 - review services provided on an ongoing basis; and
 - are transparent and open to challenge.

As part of the assessment, social services should...

- Collect a variety of information, including:
 - The views of the child whose wishes and feelings must be taken into account
 - The child should be seen alone if possible
 - Relevant information should also be collected from the family and relevant professionals such as teachers and health professionals
- A thorough assessment is vital in order to ensure that social services are able to make an informed decision about the level of services that are needed.

The Assessment Framework



Services and care plans

- The social worker should analyse all the information gathered during the assessment to decide the nature and level of the child's needs and which services and support can be given to improve the welfare of the child.
- Social services should draft a care plan (sometimes referred to as a 'child in need plan' to set out the support. This should contain a high level of detail explaining what support will be given, by whom and by when. The social worker should discuss the plan with the child and their family
- It is important to ensure a care plan is drafted; if support is not set out in a care plan, it is often not provided.
- Having support in a care plan also makes it easier to enforce in the event that the support ceases to be provided for whatever reason
- Care plans should be reviewed regularly to check whether sufficient progress is being made to meet the child's needs and whether any changes to the care plan are needed.

How much detail should a care plan contain?

- *“ A care plan is more than a statement of strategic objectives...A care plan is — or ought to be — a detailed operational plan. Just how detailed will depend upon the circumstances of the particular case. Sometimes a very high level of detail will be essential. But whatever the level of detail which the individual case may call for, any care plan worth its name ought to set out the operational objectives with sufficient detail — including detail of the ‘how, who, what and when’ — to enable the care plan itself to be used as a means of checking whether or not those objectives are being met.” Lord Justice Munby in the case of R(J) v Caerphilly County Borough Council [2005] EWHC 586 (Admin);*

Problems may encounter

- Social services refuse to carry out an assessment
- Social services willing to offer support but that assessment not needed
- The assessment does not accurately describe child's needs
- Social services offer support but do not provide a care plan
- Proposed services not enough to meet child's needs
- Social services proposing to reduce support

How to challenge decisions

- LA review
- LA complaint process
- Complaint to local government ombudsman
- Judicial review

Direct Payments

- See Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2009
- Statutory guidance - Department of Health, Guidance on direct payments for community care, services for carers and children's services England, 2009 (amended 29 October 2010).
- Discretionary
- Parents can't be forced to accept direct payments
- Can give more flexibility
- Organisations available to help carers manage their direct payments
- Should only be used to pay for services that child has been assessed as requiring
- Only limited circumstances in which LA can refuse request for DP

Voluntary Care

20.— Provision of accommodation for children: general.

(1) Every local authority shall provide accommodation for any child in need within their area who appears to them to require accommodation as a result of—

(a) there being no person who has parental responsibility for him;

(b) his being lost or having been abandoned; or

(c) 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.

...

(8) Any person who has parental responsibility for a child may at any time remove the child from accommodation provided by or on behalf of the local authority under this section.

Section 20

- Sometimes our clients are unable to cope and / or to keep their child/ren safe. There is a right to put a child into care under S20 Children Act
- Accommodation arranged where there is a care order in place is different and not voluntary.
- We have precedent letters asking for a child to be accommodated
- It is often also appropriate to ask the authority to investigate under s47 of the Children Act to determine whether they need to act to safeguard a child
- There is no choice over where a child is placed under s20 although we might consider suitability grounds with a view to JR and / or parents can reverse the arrangements
- must place child in the placement which is, in their opinion, the “**most appropriate placement available**”. s22C(5)
- S20 children should generally be classed as looked after – sometimes LA may label differently – likely to be unlawful

Looked After Child

- Sometimes parents are put off by the prospect of their child being a LAC but it comes with additional legal protection
- LAC reviews required every 6 months with an Independent Reviewing Officer (IRO) (the minutes can be very useful)
- Also LACS are entitled to personal education plans and pathway plans
- There is more information in Care Planning, Placement and Case Review (England) Regulations 2010
- See too Promoting the Education of Looked After Children statutory guidance 2014
- A residential education placement can create LAC status if it is made to meet social care needs reflected in s20 as well as educational needs (*R (O) v East Riding of Yorkshire Council* [2012] PTSR 328).
- LACs might also qualify for Children Leaving Care support

Care Leavers

- The Children Leaving Act 2000 inserted additional provisions in to the Children Act 1989 for young people coming out of the care system
- Entitlement to support and what is provided depends on fulfilling the definition of 'Eligible', 'Relevant', 'Former Relevant or Qualifying child.
- This is determined by the number of weeks in care since 14 and whether they remain in care after 16
- Care Planning, Placement and Case Review (England) Regs 2010

Comm Care and SENDIST

- Assuming an EHCP rather than statement is in place, for school types listed in s38(3) CFA 2014 costs comparisons should be done under both
- S39(4)(ii) – efficient use of resources – this means just the resources of the LA responsible and if parental preference is compatible with s39 generally it must be named
- s9 Education Act 1996 – unreasonable public expenditure – meaning savings from other funding sources can be taken into account
- For schools outside s38(3) just s9 applies.
- When applying s9, the benefits of any additional expenditure should be considered and include social and health need benefits
- Where a s20 is appropriate or there is a failure to provide social care, a threat of JR can help settle the tribunal appeal

Disabled Facilities Grants

- This is money for larger home adaptations (currently up to £30k) subject to means assessment
- Responsibility of the local housing authority but need often identified in social care assessment that should trigger referral
- Criteria include main residence only (so if parents share custody that is to be decided)
- Housing Grants, Construction and Regeneration Act 1996 plus Housing Renewal Grants Regs 1996 and associated orders

Duties re Deaf Blind

-Specific duties owed

See **Care and Support for Deafblind Children and Adults'**, December 2014, Department of Health. LA's required to take the following action :

- o identify, make contact with and keep a record of all Deafblind people in their catchment area (including those people who have multiple disabilities which include dual sensory impairment);
- o ensure that when an assessment of needs for care and support is carried out, this is done by a person or team that has specific training and expertise relating to Deafblind persons - in particular to assess the need for communication, one-to-one human contact, social interaction and emotional wellbeing, support with mobility assistive technology and habilitation/rehabilitation;
- o ensure services provided to Deafblind people are appropriate, recognising that they may not necessarily be able to benefit from mainstream services or those services aimed primarily at blind people or deaf people who are able to rely on their other senses;
- o ensure that Deafblind people are able to access specifically-trained one-to-one support workers if they are assessed as requiring one;
- o provide information and advice in ways which are accessible to Deafblind people; and
- o ensure that a Director-level member of the local authority senior team has overall responsibility for Deafblind services.

CAN BE REALLY HELPFUL – ESPECIALLY

Case Study

- 7 year old boy
- Cerebral Palsy, autism and global developmental delay
- Required supervision at all times
- Mother sole carer and expecting baby
- SS never carried out an assessment but were giving some direct payments.
- Mother was struggling to manage and was worried the situation would get worse after baby was born

Case Study

- On review found that the local authority had never carried out a detailed assessment. Instead they had simply asked the mother to complete a questionnaire then allocated a score (based on the answers) which equated to a certain amount of direct payments which they then provided.

ACTION TAKEN

- Assessment was therefore unlawful.
- Sent a pre-action letter threatening JR and asked LA to carry out urgent detailed assessment
- LA carried out assessment and put lot of extra support in place including:
 - Funding for her son to attend an after school club twice a week;
 - Funding for her son to attend a club during school holidays;
 - Respite care in the form of 2 overnights stays each month;
 - Support from a carer to be put in place for the first 8 weeks after our client gave birth;
 - Increased the amount of direct payments
- Emphasises importance of detailed assessment

Summary

1. Make a referral – must respond within one working day
2. Carry out assessment - max 45 working days
3. Draft a detailed care plan if identified need for support

WALES

ALWAYS CHECK DIFFERENCES IN WELSH
EDUCATION AND COMMUNITY CARE LAW

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