



BRIEFING PAPER

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Local authority support for children in need (England)

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This note sets out what is a "child in need" as defined in the Children Act 1989, the assessment process and the services available to children in need and their families in England. Please see the disclaimer at the end of this note.

1. What is a "child in need"

The term "child in need" is a statutory term as set out in the *Children Act 1989* as amended (the "1989 Act"). Any child can be a "child in need", even if they are living with their family.

There is no need for a court order to be made in order for a child to be determined as being in need. It is the role of a local authority's children's services department (formerly called social services) to assess and provide services in respect of children in need.

Being a child in need is not the same as being a "looked after child" (where a child is in local authority care further to a care order, or provided with accommodation by the local authority under section 20 of the 1989 Act).

A child for these purposes is defined as someone who is under 18 years of age.

Section 17 of the 1989 Act defines a child in need as follows:

- (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 by a local authority under this Part;
- (b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or
- (c) he is disabled

where "family" in relation to such a child includes "any person who has parental responsibility for the child and any other person with whom he has been living".

A number of terms used in section 17 are clarified as follows:

- "development" means physical, intellectual, emotional, social or behavioural development;
- "disabled" means 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 or such other disability as may be prescribed;
- "health" means physical or mental health

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The Family Rights Group (FRG), a charity that works with “parents whose children are in need, at risk or are in the care system and with members of the wider family who are raising children unable to remain at home”,¹ explains that:

In practice, your child will be in need if:

- (i) they are disabled – this usually means they have a substantial disability; or
- (ii) their health or development is being damaged, or soon will be, if they don't get extra support

AND their needs are assessed as being severe or complex enough to meet your Local Authority threshold for help.²

2. How can a child be identified as in need

Under the 1989 Act, “every local authority shall take reasonable steps to identify the extent to which there are children in need within their area”, as well as to publish information about the services it provides to children in need (and other groups) and to “take such steps as are reasonably practicable to ensure that those who might benefit from the services receive the information relevant to them”.³

The need for an assessment might come to light during an “early help assessment” which, as the Government notes, are intended to meet the requirement that “local agencies should have in place effective ways to identify emerging problems and potential unmet needs for individual children and families”. If “at any time” it is considered that the child “may be a child in need as defined in the Children Act 1989” – or might meet the criteria for a care order (i.e. to become a looked after child)⁴ – then “a referral should be made immediately to local authority children’s social care. This referral can be made by any professional”.⁵

It is also possible for a parent to request an assessment to determine if a child is in need, or for a child to do so “if they are old enough and mature enough to understand what they are asking for and why”.⁶

The Government has published *Working Together to Safeguard Children*, which is statutory guidance to all local authorities and others such as schools. The document states that “anyone who has concerns about a child’s welfare should make a referral to local authority children’s social care. For example, referrals may come from: children themselves, teachers, a GP, the police, health visitors, family members and members of the public”.⁷

3. Who decides if a child is in need?

As the legal text *Children Law and Practice* notes, “there is no guidance under CA [Children Act] 1989 as to who determines whether a child is ‘in need’”, adding that “it

¹ Family Rights Group, [About Us](#), webpage [taken on 10 October 2016]

² Family Rights Group, [Family Support](#), factsheet 4, 23 March 2016, p10

³ *Children Act 1989*, Schedule 2, para 1

⁴ The criteria for a care order or interim care order is that a child “is suffering, or is likely to suffer, significant harm” (*Children Act 1989*, section 31).

⁵ HM Government, [Working Together to Safeguard Children](#), March 2015, p14, para 11

⁶ Family Rights Group, [Family Support](#), factsheet 4, 23 March 2016, p11

⁷ HM Government, [Working Together to Safeguard Children](#), March 2015, p16, para 19

seems that if the criteria laid down [under section 17 of the *Children Act 1989*, see section 1 above] are satisfied, then the child is a child 'in need'".⁸

In its *Working Together* document, the Government notes that each Local Safeguarding Children Board (LSCB) "should agree with the local authority and its partners the levels for the different types of assessment and services to be commissioned and delivered". The LSCB "should" publish a "threshold document" which, among other things, includes "the criteria, including the level of need, for when a case should be referred to local authority children's social care for assessment and for statutory services under section 17 of the Children Act 1989 (children in need)".⁹

The Family Rights Group notes that, in terms of the tools that are used to assess if a child is in need, a child needs should be assessed using the following:

- i) Working Together 2015, the government guidance that sets out the basic national framework for assessing and responding to children's needs;
- ii) your LSCB [Local Safeguarding Children Board] threshold documents which must make clear the guidelines that the social worker will follow when deciding whether your child's needs should be assessed to get extra help; and
- iii) Local Authority's protocols for assessment which should set out clear arrangements for how cases will be managed once a child is referred to Children's Services for help or protection.¹⁰

Children Law and Practice states that:

Whether or not a child is 'in need' is a question for the judgement and discretion of the local authority, and appropriate respect should be given to the assessments of social workers, who have a difficult job in financially straitened circumstances. The local authority is entitled to draw inferences from the combination of (a) evidence that sources of support have existed in the past and (b) lack of satisfactory or convincing explanation as to why they will cease to exist in future.¹¹

If an assessment determines that a child is in need, the Family Rights Group highlights the following points:

If the assessment says your child needs extra help from Children's Services as well as other agencies, the social worker and other professionals should agree a multi-agency plan of action and discuss this with you and your child. This should be discussed at a Child In Need planning meeting which you should be invited to. The plan should set out:

- What support will be given and who will give it
- How long this support will be given for
- What the aim of the support is
- What other agencies are expected to do
- How and when the plan for support will be reviewed.¹²

4. What are the timeframes?

The statutory guidance in *Working Together* states that "within one working day of a referral [to children's services] being received, a local authority social worker should make

⁸ Hershman and McFarlane, *Children Law and Practice*, para F32

⁹ HM Government, [Working Together to Safeguard Children](#), March 2015, p15, para 18

¹⁰ Family Rights Group, [Family Support](#), factsheet 4, 23 March 2016, p12

¹¹ Hershman and McFarlane, *Children Law and Practice*, para F32

¹² Family Rights Group, [Family Support](#), factsheet 4, 23 March 2016, p19

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a decision about the type of response that is required and acknowledge receipt to the referrer”.

If it is decided to undertake an assessment, then *Working Together* sets out a maximum time limit:

The maximum timeframe for the assessment to conclude, such that it is possible to reach a decision on next steps, should be no longer than 45 working days from the point of referral. If, in discussion with a child and their family and other professionals, an assessment exceeds 45 working days the social worker should record the reasons for exceeding the time limit.¹³

In addition, there is no need to wait until the assessment is completed before services can be provided: *Working Together* states that “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”.¹⁴

For those children in need of “immediate protection”, “action must be taken by the social worker, or the police or NSPCC if removal is required, as soon as possible after the referral has been made to local authority children’s social care”.¹⁵

5. Support available to a child in need and their family

In cases where need is “relatively low level”, then “individual services and universal services may be able to take swift action”. However, for more “complex needs, help may be provided under section 17 of the Children Act 1989 (children in need)”.¹⁶

In addition to the services that local authorities provide for all children (such as family centres and recreational activities), the 1989 Act specifies the range of services that can be made available for a child in need:

- advice, guidance and counselling;
- occupational, social, cultural, or recreational activities;
- home help (which may include laundry facilities);
- facilities for, or assistance with, travelling to and from home for the purpose of taking advantage of any other service provided under the 1989 Act or of any similar service;
- assistance to enable the child concerned and his family to have a holiday;
- maintenance of the family home if the child is in need (but is not a looked after child) and is living apart from their family (in order to either to enable the child to live with their family, or to promote contact between the child and their family);
- day care for if the child is under 5 years of age but is not yet attending school;
- care or supervised activities (either outside school hours or during school holidays) for a child attending any school;
- providing accommodation to a child and their family;

¹³ HM Government, [Working Together to Safeguard Children](#), March 2015, p26, paras 58 and 60

¹⁴ HM Government, [Working Together to Safeguard Children](#), March 2015, p26, para 61

¹⁵ HM Government, [Working Together to Safeguard Children](#), March 2015, p26, para 59

¹⁶ HM Government, [Working Together to Safeguard Children](#), March 2015, p15, para 15

- giving assistance in kind or in cash.¹⁷ The Family Rights Group notes that “practical help (including cash) for example help to buy essential equipment for children, food and other necessities or even help with housing costs. Each Children’s Services department will have its own guidance about this form of help”.¹⁸

Any service listed above (except day care or care or supervised activities) may also be provided to any member of the child in need’s family, “if it is provided with a view to safeguarding or promoting the child’s welfare”.¹⁹

In response to the question, “Can I decide what support my child gets?”, the Family Rights Group notes:

Not exactly. Generally,²⁰ families don’t have the right to insist on a particular type of support being provided and, in practice, final decisions on what help will be offered to meet the assessed needs of children in need, are often made at internal funding panels within Children’s Services. You won’t be invited to this meeting.²¹

6. Charging for support provided

Local authorities are allowed to seek recoupment of the cost of providing services to a child in need and their family (except costs relating to advice, guidance or counselling). A local authority “may” recover “such charge for the service as they consider reasonable” under section 29 of the 1989 Act as amended; the use of the word “may” in the legislation means that a local authority is not under a duty to recover the costs.

In addition, if a local authority is “satisfied that that person’s means are insufficient for it to be reasonably practicable for him to pay the charge, they shall not require him to pay more than he can reasonably be expected to pay”.²²

The Family Rights Group notes that “to work out what is ‘reasonable’ they must look at your family’s weekly income and expenses. They can only ask you for a contribution towards the cost of support for your child out of any income that is left”.²³

For a child under 16 years of age, the parents of the child can be liable; for a child over 16 years of age, the child themselves can be liable. If a service is provided for a member of the child’s family, the family member can be liable.

However, the 1989 Act also states that persons in receipt of certain welfare benefits and tax credits cannot be charged for services provided to children in need, namely if the service was provided at a time when the person was in receipt of:

- universal credit (except in such circumstances as may be prescribed);
- income support;
- any element of child tax credit other than the family element;
- working tax credit;

¹⁷ *Children Act 1989* (as amended), sections 17 and 18, Schedule 2, paras 8, 10

¹⁸ Family Rights Group, [Family Support](#), factsheet 4, 23 March 2016, p20

¹⁹ *Children Act 1989* (as amended), section 17(3)

²⁰ “There are some circumstances when families do have a right to support for their children:

- Families of eligible disabled children have a right to direct payments; and
- Families of children with special educational needs who have an education, health and social care plan (EHC plan) have a right to the support identified in the statement/plan for their children”.

[Family Rights Group, [Family Support](#), factsheet 4, 23 March 2016, p21]

²¹ Family Rights Group, [Family Support](#), factsheet 4, 23 March 2016, p21

²² *Children Act 1989* (as amended), section 29(2)

²³ Family Rights Group, [Family Support](#), factsheet 4, 23 March 2016, p27

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- income-based jobseeker's allowance; or
- income-related employment and support allowance.²⁴

7. What if an assessment is refused, or someone is unhappy with its outcome?

The Family Rights Group advises that “first of all, you should ask the social worker why they think you are not entitled to an assessment and/or why they aren’t giving you the support that you have asked for. You have a right to know why they have made a particular decision and the reasons for it in writing”. Requesting a copy of the local threshold document and local eligibility criteria for supporting children who are in need and comparing a child’s needs to it is also suggested.²⁵

The Family Rights Group also suggests the following steps:

- Contact other local agencies that provide support ... [e.g. local voluntary agencies and children’s centres]
- Ask the social worker about other support that you can access directly [...]
- Ask for an ‘early help assessment’ instead [...];
- 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 ... The family then uses this information to make a plan, as a group, without professionals being present [...]²⁶
- Complaints: You can ask for the decision to be formally reviewed through the complaints procedure [...]²⁷
- Judicial Review: In exceptional circumstances you may be able to challenge Children’s Services’ decision by taking legal action [...]²⁸

8. Relevant support organisations

There are a number of organisations which can provide advice to parents in relation to the topics covered in this note, for example:

- Child Law Advice – childlawadvice.org.uk, 0300 330 5480
- Contact a Family (for parents of disabled children) – www.cafamily.org.uk, freephone 0808 808 3555
- Family Rights Group – www.frg.org.uk, freephone 0808 801 0366;

²⁴ *Children Act 1989* (as amended), section 29(3)

²⁵ Family Rights Group, *Family Support*, factsheet 4, 23 March 2016, p28

²⁶ For example, see the Family Rights Groups factsheet, *What is a family group conference?*

²⁷ For example, see the Family Rights Groups factsheet, *Challenging decisions and making complaints.*

²⁸ Family Rights Group, *Family Support*, factsheet 4, 23 March 2016, p29

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