

# **A review of the Short Breaks Review Process for Birmingham Children’s Trust**

**By the Council for Disabled Children**

**March 2024**

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## **Introduction**

Birmingham Children's Trust (BCT) commissioned the Council for Disabled Children (CDC) to carry out a review of their policy and processes for the review of short breaks packages for disabled children and young people. BCT updated their policy for reviewing short breaks in January 2023 following a period of redesign of their disabled children's services.

CDC's review had three key aims:

- To understand the impact of the BCT short breaks review and decision-making process on the experiences of disabled children, young people, and families.
- To understand whether the updated process aligns with the legislative framework and statutory and non-statutory guidance for short breaks.
- To explore the extent to which the process is implemented in partnership and collaboratively with disabled children, young people, and parent carers.

CDC believes that services for disabled children work most effectively when policies and protocols are developed in partnership with and clearly understood by parent carers and families. This culture can enable systems and parent carers to work together to achieve the very best outcomes for disabled children and young people. Acknowledging that the data provided by BCT for this review reflects the experiences of families prior to changes being made by the Trust, our aim has been to identify what is currently working well for disabled children who have experienced a review of their short breaks package, what needs to shift and why, and how improvements are already being taken forward by BCT, with the ultimate aim to support parent carers to have more trust in BCT's decision-making about disabled children's support. CDC appreciates that some families engaging with the short breaks review process may still be experiencing the impact of historical mistrust with BCT in relation to accessing services and support for disabled children. Our recommendations aim to enable opportunities for further change for those families who go on to experience a review of their child's support package by BCT in the future.

BCT's **written policy for reviewing short breaks packages** adheres to the law and statutory guidance specifically in relation to the review of short breaks packages. This is demonstrated by BCT's commitment to establishing the legal basis for a child or young person's short breaks provision, including the different types of statutory care plans for short breaks and how plans correspond to whether the child receives overnight short breaks. The policy also recognises that regular reassessments and reviews of disabled children and young peoples' needs are key mechanisms to take account of any fluctuations of their needs and wider family circumstances.

However, CDC has found that the **experience of implementing this policy in practice has been challenging**, which has led to confusion about the policy and protocols from parent carers who engaged with the review process. This is due to the barriers to BCT effectively communicating the new process with families, in the context of a history of mistrust about the professional rationale for decisions about support packages for disabled children, and disagreements with parent carers over the approach taken by BCT to understand the child's and family's unmet needs for support.

Despite the challenges, BCT began implementing changes during the course of the CDC review process, which are outlined in detail within the report. We explore the detailed feedback from parent carers and professionals and make a range of recommendations for BCT to consider with the aim of improving how the policy for reviewing short breaks is realised in practice.

## Overview structure and responsibilities between BCT and Birmingham City Council

Services to disabled children and their families living in Birmingham are delivered by both Birmingham City Council (The Council) and Birmingham Children's Trust (The Trust).

Whilst the Council have the overall legal duty to deliver services to disabled children and their families, the Trust have been commissioned to deliver some of these services on their behalf.

The Council have retained responsibility for assessing children and young people with special educational needs, via an Education, Health, and Care Needs Assessment (EHCNA) and delivering any Education, Health and Care Plan (EHCP) that may result from the EHCNA, through its statutory duties contained within the Children and Families Act 2014 and the accompanying Special Educational Needs and Disabilities Code of Practice.

The Council and the Trust have joint responsibility for the development and commissioning of the Short Breaks Local Offer, which is delivered under the Breaks for Carers of Disabled Children Regulations 2011.

The Trust have responsibility for assessing social care needs and delivering support to disabled children and their families through statutory social work interventions contained primarily within the Children Act 1989 and the Chronically Sick and Disabled Persons Act 1970 (there is additional legislation and regulation concerning disabled children).

Social Work Services within the Trust, including the Children with Disabilities Service work closely with the Council, particularly the Special Educational Needs and Resources Service (SENAR) to enable them to meet their statutory responsibility to children and young people with special educational needs and disabilities, with Adult Services when young people are preparing for adulthood or transitioning to adult services and with linking children, young people and their families to support services available through the Short Break Local Offer.

## Legal Framework

### Defining short breaks

Short breaks are part of a continuum of services which support children in need and their families. They can include day, evening, or overnight and weekend activities and can take place in the family home, the home of an approved carer, or in a residential or community setting.<sup>1</sup> The fundamental purpose of short breaks is to support families to continue in their caring role while providing positive opportunities for disabled children and young people to live fulfilling lives, feel included in their local community and enjoy activities that all other children and young people can participate in.

### The legal basis

There are a range of relevant legal duties in relation to the funding and provision of short breaks by local authorities. Local authorities are required to provide short breaks to children where an assessment shows that they are necessary to meet their needs, taking account of the family context. Local authorities are also required to follow duties relating to care planning and wider commissioning obligations on local authorities, and the key duties can be found in the following legislation and statutory guidance:

- Children Act 1989 and the Breaks for Carers of Disabled Children Regulations 2011
- Statutory guidance on how to safeguard and promote the welfare of disabled children using short breaks
- Chronically Sick and Disabled Persons Act 1970 ('CSDPA 1970')
- Children Act 2004
- Children and Families Act 2014
- Equality Act 2010
- NHS Act 2006 (as amended by the Health and Social Care Act 2012)
- Care Act 2014 (in relation to young people who qualify to transition to adult social care).

## Methodology

To meet the aims of the review, we developed a multi-staged approach to gather insight and intelligence from a broad range of stakeholders relating to the policy for reviewing short breaks and the experience of the implementation of the policy. These activities included:

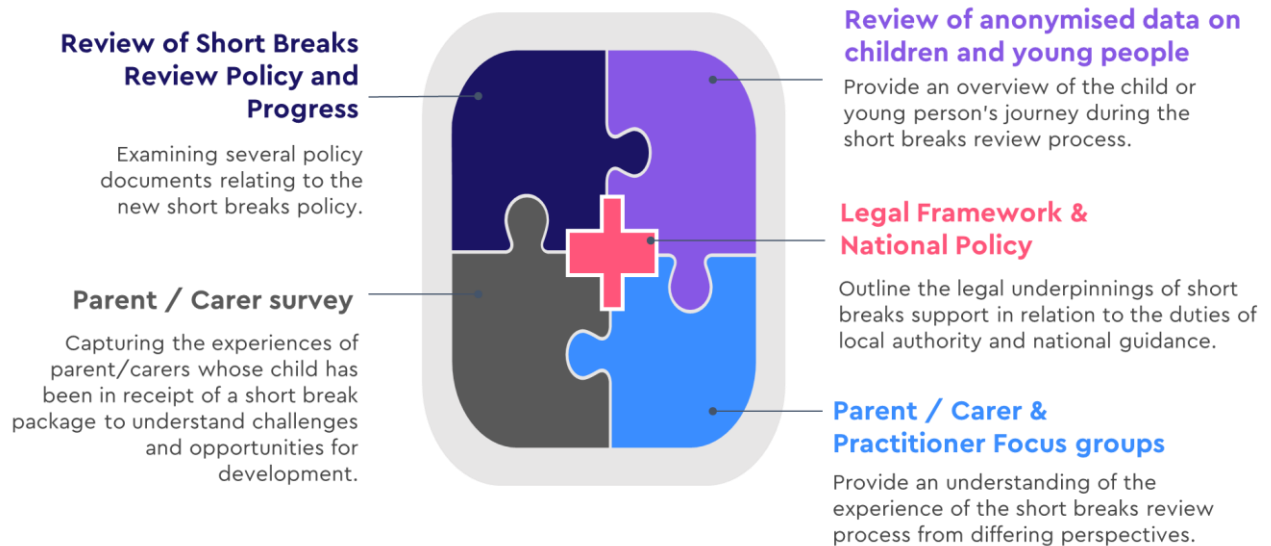
- Two focus groups
- One parent carer survey
- Data analysis of anonymised data of disabled children and young people
- Creation of a practitioner guide to gather views and experience of disabled children and young people

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<sup>1</sup> Department for Children, Schools and Families (2010) [Statutory guidance on how to safeguard and promote the welfare of disabled children using short breaks \(publishing.service.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/142422/statutory_guidance_on_how_to_safeguard_and_promote_the_welfare_of_disabled_children_using_short_breaks.pdf)

- Desk-based research of policies and documents
- One interview between CDC and senior leaders in BCT

These activities allowed us to capture the breadth and depth of experiences across the short breaks review process, incorporating perspectives from practitioners and parent carers. The diagram below provides an overview of the activities, except for the practitioner guide, as advice was provided by the Head of Service for Children with Disabilities BCT to disband collecting perspectives from children and young people about the short breaks review process, as the content of the guide was deemed inaccessible in relation to their communication needs. The Head of Service stated that the views of disabled children and young people whose short breaks packages are reviewed by BCT come from observations across a range of settings and that this information is triangulated to inform decision-making. CDC agreed to use the anonymised data about a subset of reviews of short breaks packages to understand the impact on the review process on individual children and young people.



## Review of Birmingham Children's Trust Short Breaks Review Policy and Process

The initial review of the short breaks review policy and process included reviews of 10 documents shared by the local area, including the overall aims of the policy, the purpose of the Short Breaks Reviewing Team, Reviews of Child in Need Plans and packages of support, example letters to parent carers about decisions following the review process, information about direct payments and short breaks services, and decision-making protocols:

- **Short Breaks Children in Need Resource Provision Leaflets**
  - Direct payments: Outlines purpose of direct payments for parent carers and Payroll Support Service.
  - Home Support: Outlines provision from *Carematch* which includes personal care, social skill development and outdoor activities.

- Agency Fostering Service: Outlines day care provision from *Fostering People* childcare organisation.
- Residential Homes: Provision provided in Ofsted registered local children's homes such as Edgewood Road, Charles House, and Warwick House
- **Processes and structures relating to decision-making for short breaks packages.**
  - Decision Review process for Community Resource Panel Fact Sheet
  - Community Resource Panel Process for Children with Disabilities
- **Short breaks review policy**
  - Short breaks policy (January 2023)
  - Short breaks policy and practice guidance (January 2023)
- **Communication with parent/carers**
  - Decision review outcome letter template (November 2022)
  - Outcome letter template (November 2022)

## Review of Data on Children and Young People

CDC was provided anonymised data by BCT on a subset of children and young people who were known to the Children with Disabilities Service and had their package of support reduced without a reassessment of their needs having taken place (through social work or early help teams). The data is from September 2022 to May 2023 where 22 children and young people had their packages reduced following from the short breaks review from the Independent Short Breaks Reviewing Officer. As reported by senior leaders in BCT, there have been changes to the policy for decision-making about support packages for disabled children and young people, so that no support package can be changed without a reassessment taking place. The summary below outlines the changes to short break packages of 22 children and young people following from the review by the Independent Short Breaks Reviewing Officer and the update since the review.

- 15 children and young people were receiving overnight support from the 3 children's homes (Warwick House, Charles House, or Edgewood Road)
- 7 children and young people received direct payments used to pay for support which included one young person whose package was stopped as they were deemed ineligible for support under Section 17 Children's Act 1989.

Following from the outcome where decision was made to reduce the short breaks package:

- 5 packages stayed the same,
- 14 packages were reduced,
- 1 package was stopped as the child was not disabled and became ineligible for support,

- 1 package was stopped due to parental circumstances relating to mental health.

## Focus Groups

Two focus groups were conducted online to capture the experiences of the BCT Short Breaks Review Process from both parent carer and practitioner perspectives. Two members from the CDC were present in each focus group to facilitate the session and ensure the discussion was accurately captured.

### Parent Carer Focus group

- **Method:** To ensure that the views of parent/carers were captured in the review process, CDC approached BCT and they co-ordinated the outreach to the Birmingham Parent Carer forum through email.
- **Results:** A 1.5-hour focus group was held with 11 participants. One parent required reasonable adjustment to participate, and the PowerPoint presentation slides were sent before the focus group and permission was given to another parent to speak on their behalf.
- **Discussion:** Two members from CDC co-facilitated the focus group to outline the experiences of parent/carers through the short breaks review process. Attempts were made to re-steer the conversation towards the review process rather than application to receiving short breaks. However, due to the sensitivity of discussions, the two facilitators provided an opportunity for parent/carers to reflect on their whole journey with BCT and navigating short breaks package support.

### Practitioner focus group

- **Method:** To ensure that the views of professionals and practitioners were captured in the review process, CDC approached BCT and they co-ordinated outreach to BCT staff.
- **Results:** A 1.5-hour focus group was held with 7 practitioners which included an independent reviewing officer, operational and home managers as well as heads of service.
- **Discussion:** Two members from CDC co-facilitated the focus group to outline the experiences of practitioners through the short breaks review process.

## Parent Carer Survey

The purpose of the survey was to provide quantitative and qualitative data to supplement the analysis. One survey was sent to parent carers through the Birmingham Parent Carer forum representative to anonymously collect feedback and 12 responses were obtained. The survey captured information about the child or young person as well as the parental perspectives on the effectiveness of the process. A section was dedicated to capture their experiences against the ideal journey of the short breaks review process set out in BCT's policies.

## Practitioner Guide



The purpose of the practitioner guide was to support practitioners to gather the views of children and young people through group activity sessions that are delivered to disabled children and young people at their short breaks provision. The guide contained adaptable components to capture what went well and what could be better for them during the short breaks review process.

As aforementioned, the practitioner guide was not deemed a suitable approach to capture the views of children and young people due to the nature of the review process and was therefore not included as part of the CDC review. CDC understands that practitioners in BCT are supported to capture the views of children and young people who communicate non-verbally through the review process. We recommend that BCT ensure this happens consistently across all short break reviews, so that families feel reassured that their child or young person's voice has been included and understand the efforts made by BCT to achieve this. BCT may also want to consider alternative methods to gather feedback from disabled children and young people with complex communication needs about their participation in the review process and/or the experience of their short breaks.

### **CDC Interview with Senior Leaders in BCT**

A facilitated conversation took place in December 2023 after the main activities of the review were conducted and a draft report was finalised. In attendance was:

- Caroline Coady – Deputy Director Practice and Programmes (CDC)
- Keith Martin - SEND CWD Consultant (BCT)
- Claire Owen - Head of Service for Children with Disabilities (BCT)

The purpose of the conversation was to provide clarification on the review findings, identify where developments were made in parallel with the review but were not captured by the activity and outline the next steps post-review. The conversation provided an opportunity to contextualise the review within wider changes and find ways to increase the accessibility of information to those who do not have an in-depth understanding of the SEND sector. A summary of the conversation is in the appendix.

### **Understanding Birmingham Children's Trust Policy and Protocols against the Legal Framework**

Background information provided by Birmingham Children's Trust to the Council for Disabled Children about SEND services in Birmingham established that the update to their policy for reviewing short breaks packages for disabled children and young people had taken place alongside comprehensive strategic and system improvements work within SEND. The lack of a clear, suitable assessment and review protocol of short breaks provision had resulted in support packages for disabled children and families that had not been reviewed for a substantial period.

BCT's aim was to establish a review process which ensured that decisions were based on a holistic, multiagency assessment of the disabled child's needs and family context, so that the frequency and level of provision was based on an accurate picture of the child's circumstances. In doing so, the review process

aims to capture and monitor the changes in the child's needs over time through six-month minimum review cycles, to adjust support in proportion to the level of need.

Using the policy documents shared by BCT, we have summarised the current short breaks review process and practice guidance. Initial analysis of how the process and policy reflects the legal framework will provide the context for the more in-depth evaluation through the two focus groups, data of disabled children and young people in receipt of short breaks packages, and the parent carer survey.

## Aims

The overarching aims of BCT's short breaks review policy are realised by:

- "Recognising that although disabled children and young people may have unique needs, they have a right to enjoy full and happy childhoods, fulfil their potential and have the same opportunities as other children and young people.
- Recognising that caring for disabled children and young people can be challenging and supporting parents and carers by co-producing assessments and support plans that will help meet their family's individual needs.
- Making sure disabled children and young people's voices are reflected in assessments and planning by using Picture Exchange Communication (PECS), Mind of My Own Express, Makaton, sign language or other communication methods that they find helpful.
- Making sure all plans are tailored to the needs of children, young people, and their parents/ carers, and that they are fully involved in their production.
- Where support will be provided via direct payments rather than the direct provision of services, making sure that we offer families help to manage and make best use of them.
- Where short breaks are offered as part of the support plan, being clear about what legal provision applies to the short breaks being offered."<sup>2</sup>

Disabled children and young people have the same human rights as all children and young people, and disability should not be a barrier to participating in life fully. These aims reflect those principles, as well as key aspects of the legal framework, regulations, and statutory guidance summarised above. BCT may want to consider specifying that support plans will address how short breaks services will meet the identified needs of disabled children and young people. The key stages and protocols of their policy are set out below.

## Pathways to Short Breaks in Birmingham

The starting point for understanding the legal framework for short breaks is section 17(1) of the Children Act 1989 and the duty on local authorities to provide services for children in need. Schedule 2, paragraph 6 of the Children Act 1989 outlines the key duty on local authorities to provide short breaks services for disabled children and young people. This supplements the general duty in section 17(1) to safeguard and promote the welfare of children in need in their area by providing a range of services.

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<sup>2</sup> Birmingham Children's Trust (2023) Short Breaks Policy and Practice Guidance for Children and Young People with Disabilities

Disabled children and young people in Birmingham whose needs cannot be met by universal services are referred for an assessment with the Children with Disabilities Team in BCT. Following an assessment by a social worker which identifies unmet needs, applications for short breaks are referred to the Community Resource Panel, to decide on the legal basis for short breaks provision and agree the additional services that cannot be met by community resources.

Statutory guidance sets out that local authorities are expected to provide short breaks services that provide disabled children and young people with:

- “Opportunity to lead lives which are as normal as possible”,
- “Minimise the effect on disabled children... of their disabilities” and
- to “assist individuals who provide care for such children to continue to do so, or to do so more effectively, by giving them breaks from caring”.<sup>4</sup>

The effect of this short breaks duty in the Children Act 1989 is that the services provided by every local authority to children in need must include breaks to support families in “crisis”, as well as breaks to ensure that family life can be sustained effectively, in reflection of a spectrum of possible needs and risks.

BCT’s policy follows statutory guidance in relation to the regulations for children or young people in receipt of overnight short breaks.<sup>3</sup> Social workers are allocated to all children and young people in receipt of overnight short breaks in Birmingham. The guidance specifies that where overnight short breaks are provided as part of family support and parents still have a central role in the child’s care, reviews are chaired by the Short Breaks Reviewing Officers (SBRO) within three months at the start of the first placement and then at intervals of no more than six months.

Section 20(4) regulation 48 of the Children Act 1989 does not apply when a child receives short breaks in more than one setting, for example in a residential school or a hospice; or if short breaks last more than 17 days and the total exceeds 75 days in one year. These reviews will be chaired by Area Independent Reviewing Officers as part of their statutory Child in Care Reviews (within 20 days of the start of the 1<sup>st</sup> placement, the 2<sup>nd</sup> no more than three months after the 1<sup>st</sup> review and then subsequent reviews no more than six months after the previous review).

### Short Break Care Plan and Assessment

All disabled children are children ‘in need’ under section 17 of the Children Act 1989 and are therefore entitled to a form of assessment. The law does not specify a format for assessment which means that approaches and assessment models can vary<sup>4</sup>. However, the assessment should be more than a descriptive document. Rather it should explore the child’s needs, the impact of the disability on the parent carers, and whether their needs can be met now and continue to be met in the future.<sup>12</sup> Although the exact form of the assessment is not set out in legislation, assessments of disabled children must be holistic and take account

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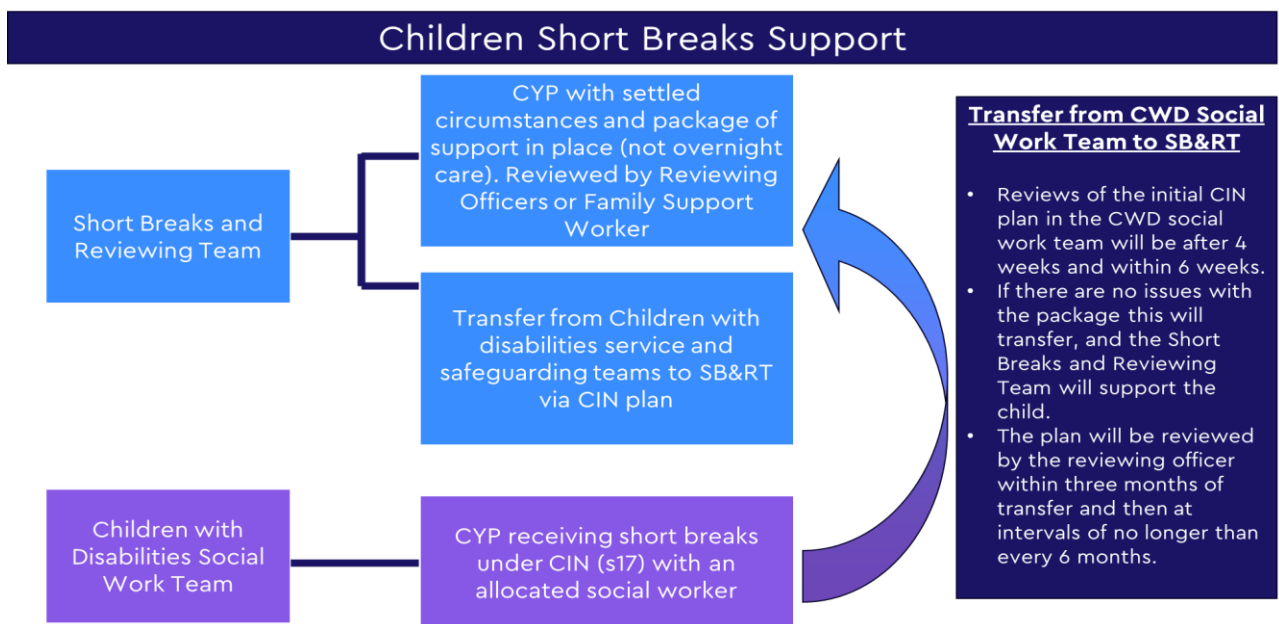
<sup>3</sup> The Care Planning, Placement and Case Review (England) Regulations (2010)

<sup>4</sup> Broach, S. (2021, October 5). Social care for disabled children- eligibility and thresholds. Presented at the Eligibility and thresholds AWG.

of the wider family context, including the needs of parent carers and siblings.<sup>5</sup> Given the increasing pressure on local authority budgets, an appropriate assessment is key to identifying where there is a specific duty on the local authority to provide short breaks and should form the basis of how the corresponding care plan will respond to those needs.

The BCT policy for reviewing short breaks sets out the requirements for reassessments of children and young people, to identify unmet needs and to make decisions about whether they meet the eligibility criteria for short breaks. Following an assessment or reassessment, the disabled child or young person’s short break care plan should set out how the child and young person’s needs will be met while they are away from their parents and participating in the short break. The plan should be linked to the child’s overall child in need plan, which should include all the key information about the child’s and family’s circumstances and other outcomes and goals.

After the first CIN review, if there are no issues with the support package and no safeguarding concerns, the child or young person will transfer to the Short Breaks and Reviewing Team. Children and young people who are in receipt of overnight short breaks or packages of support from more than one provider will remain allocated to a Social Worker.



After transfer to the Short Breaks and Reviewing Team, disabled children and young people will then have their child in need plan reviewed within three months, and then at every six or twelve months at a minimum, depending on the child or young person’s needs.

If an identified change in family circumstances or the needs of the child or young person is identified at the review meeting, then the Team Manager will discuss a potential transfer to the Children with Disabilities team or whether issues can be explored via Short Breaks and Reviewing Team.

<sup>5</sup> Page 60, Department for Education (2023). *Working together to Safeguard Children 2023: A guide to multi-agency working to help, protect and promote the welfare of children.*

The table below aims to outline the three possible care plans and review cycles for disabled children or young people in receipt of short breaks, based on document analysis of the policies and processes.

Plan	Context	Review cycles / timelines
<b>Children in Need plan (CIN)</b>	Transfer between Children with Disabilities service and safeguarding teams	<p><b>Children with Disabilities Team: (under section 17)</b> Initial visits will be 4 weekly and reduce to three monthly.</p> <p><b>Short Breaks and Reviewing Team:</b> Review the CIN Plan within three months of transfer before converting to Early Help plan. Reviews of initial CIN Plan will be after four weeks and within six weeks before transfer to Short Breaks and Reviewing Team.</p>
<b>Early help plan</b>	Children supported by the Short Breaks and Reviewing Team e.g., by Family support workers.	Early Help plan reviewed every six months or twelve months appropriate to the child's needs.
<b>Short breaks care plan</b>	Outlines how disabled children and young people's needs can be met whilst away from parent/carer at short breaks provision.	The short-break care plan should be linked to the child's overall early help/CIN plan without duplication.

Care plans for disabled children allow local authorities to gather all the relevant information regarding a child and families needs and how the local authority will perform their statutory duties to meet those needs.<sup>14</sup> The 2010 short breaks statutory guidance contains examples of what should be included in a high quality care plan, including outlining the arrangements to review the plan, identification of any risks of harm to the disabled child, and the key objectives of the how, who, what, and when services will be provided and how outcomes and goals will be achieved.

### Independent Short Breaks Reviewing Officers

Short Breaks Reviewing Officers in the BCT Children with Disabilities Services – named “IROs” in the Short Breaks Policy and Practice Guidance (ISBROs for the purposes of this report) - oversee the short breaks review process, chair the short break review meetings, previously made decisions about support packages, and ensure that short breaks are provided under the correct legal basis. At the start of their involvement, they visit the disabled child or young person and their home or school setting, and then at least once every year thereafter. These visits are key to exploring how the child or young person is engaging with the short breaks provision and understand the impact of the activity on the child or young person's outcomes, as set out in the care plan.

BCT provided CDC with a letter template to parent carers about the review process, which includes the purpose of the role:

“The Independent Reviewing Officer [for short breaks] is there to:

- Provide independent support and oversee your child's package of care.

- Ensure your child has an up-to-date short break care plan detailing all of their needs.
- Listening to the child's voice and consider their wishes and feeling's.
- Ensuring that Birmingham Children's Trust (BCT) are meeting their statutory responsibilities."<sup>6</sup>

## Frequency of reassessments

Disabled children and young people in receipt of a short breaks package in BCT should have their needs reassessed by a social worker at least every two years. BCT's short breaks policy includes a list of circumstances where reassessments should take place earlier:

- Parents/carers request for a change of package.
- Any safeguarding issues are identified.
- There is a change in parental circumstances such as one parent leaving the home.
- There are any significant changes in the behaviour of the child.
- The child reaches 14, to begin 'Preparing for Adulthood' planning.
- The child moves from primary to secondary education.
- Any other change that the IRO or Team Manager for Short Breaks and Reviewing Team believes impacts significantly on the child.

These requirements for reassessment ensure that BCT can respond to any changes in children and young people's needs or circumstances to trigger a reassessment, which may precede the usual timescales for a review.

## Review Meeting

Reviews of short break care plans are opportunities for BCT to demonstrate that they aim to work in partnership with the child or young person and their family, to take account of their views, wishes and feelings and address any anxieties they may have about the review process. This is especially important once a child is old enough to be supported to prepare for adulthood, which can be a time of heightened uncertainty for families.<sup>7</sup> The review meeting, when working well, also creates a space for effective collaboration and information sharing between professionals from different agencies, leading to evidence-based decisions as to whether the provision needs changing or if services need to change their approach to ensure the child or young person is on track to achieving their outcomes.

BCT's policy and practice guidance sets out the requirements and timescales to arrange the review meetings, disseminate reports, and share minutes with the child or young person, their family, and key professionals.

The guidance includes a full list of all the individuals who should attend the meeting, including an advocate for the child or parents, the lead practitioner supporting the family, other key professionals (i.e., from school, health, etc.), and the different short breaks providers working with the child or young person. Professionals or parents who cannot attend the review meeting should be asked to provide their views to

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<sup>6</sup> Letter template to parent/carer written by Birmingham Children's Trust – supplied to CDC as part of this review.

<sup>7</sup> Research from CDC's five-year Transition Research programme found that young people find transitions to adulthood difficult because this is a period of heightened uncertainty and can result in changing access to services and support. More information about the programme can be found online here: [Transition Research Programme - Facilitator guides \(councilfordisabledchildren.org.uk\)](https://www.councilfordisabledchildren.org.uk).

be shared at the meeting. The meeting itself can take place in person or online depending on the parent carer's preference and should last 1 to 1.5 hours.

BCT's policy also sets out a list of discussion points for the review meeting, from considering the child and family's wishes and feelings, payment mechanisms, and information provided from other agencies.

The detailed requirements of the short breaks review meetings are set out in **Appendix 1**.

The purpose of the review meeting is to identify the components of the plan as well as capture the changing needs of the child and family. If significant change has taken place, the reviewing officer will initiate a reassessment to take place. Reviewing officers only update packages with instances of misuse such as fraud. This has replaced the previous structure where reviewing officers made decisions based from the review to determine outcomes such as whether the package of support should be increased or reduced (Appendix 1).

## Key Findings: How is the Birmingham Children’s Trust Short Breaks Review Process Experienced in Practice?

Based on the feedback from the two practitioner and parent carer focus groups, survey responses and analysis of the anonymised sample data of disabled children and young people, the following section sets out the findings relating to BCT Short Breaks Review Process as experienced by practitioners and parent carers. The findings are categorised into strengths and challenges, with corresponding key themes for each.

### Understanding the Strengths and Challenges of the Short Breaks Review Process

Whilst conducting the analysis, we found that there were notably fewer strengths in the parent carer focus group relating to the short breaks review process to draw conclusions from. This is due, in part, to the nature of the discussion where the review process itself became a starting point for parent carers to reflect on the overall experience of assessments, allocating support, and complaints processes as well as BCT’s approach to reviewing short breaks. As stated in the introduction, CDC appreciate that these experiences have been shaped by historical mistrust with BCT before changes were made to the processes and protocols for reassessing and reviewing support packages. Attempts were made to steer back to the review process during the parent carer focus group, however due to the sensitivity and consideration needed for the attendees, the CDC facilitators dedicated time to create a safe space for parent carers to share their broader experiences.

### Strengths

#### Reflecting the changes already made by BCT to improve experiences of disabled children and their families

During the post-review facilitated conversation, it was identified that a few recommendations put forward by the report were in the process of being implemented. For instance, to increase accessibility of the Short Breaks Policy for practitioners the new policy includes an additional introductory section that sets out the overview of legal duties for short breaks and the duties that BCT has towards individual children and families. Furthermore, there was recognition that use of the term *independent reviewing officer* caused confusion regarding the roles and responsibilities of reviewing officers especially in the context of safeguarding and BCT have since changed the terminology. In addition, the conversation highlighted the revised responsibility of the reviewing officers and changes to care packages which were clarified to only take place through a reassessment. This clarification was made to better contextualise the anonymised data of disabled children and young people which explained how the data provided a snapshot in time before the changes were implemented.

#### Gathering perspectives from a range of professionals

Feedback from the 7 attendees in the practitioner focus group highlighted the ways in which the review process is able to capture the input of professionals who are invited to the review and ensuring contingency plans are put in place when professionals cannot attend, such as submitting reports beforehand.

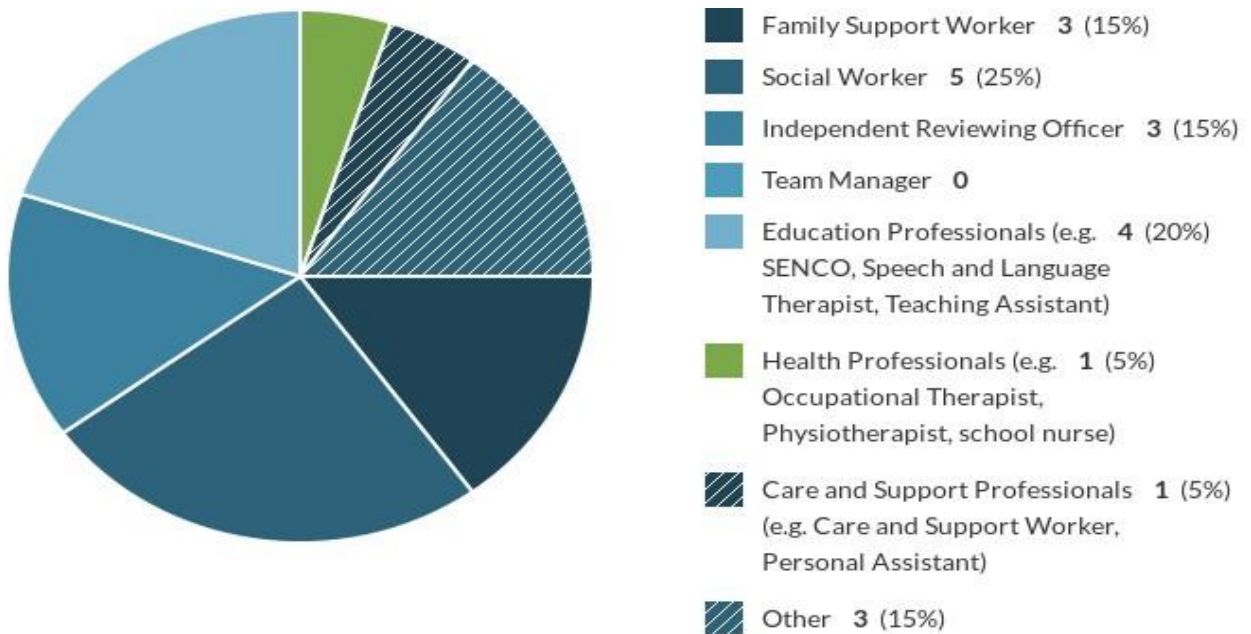
*“Education are a part of that. We get in touch with health professionals as well and invite them to the review. So if the child is known to Forward Thinking Birmingham or any other health professionals, they*



*will be invited to the review. And sometimes if they can't attend the review, they obviously give us a report prior to that.*" – Independent Short Breaks Reviewing Officer

This is reflected in the parent carer survey where the 12 responses identified a range of professionals in attendance to the child's review meeting such as the Forward-thinking Birmingham coordinator, health, and education professionals. The diagram below outlines the parent carer responses to the survey selecting the professionals who attend their child's review meeting.

This particular strength is aligned with point 3.19 of the Statutory guidance for Short Breaks which *states*:



*the importance of ensuring that the review should see the child's development and progress in the round and therefore be a multi-agency review whenever possible.*<sup>8</sup>

### **Gathering the needs and perspectives of children and young people**

Feedback from the seven attendees in the practitioner focus group identified efforts to capture the views of children and young people who are non-verbal in the review process.

*"It's about us understanding, like, you know, what do they like doing a little bit more about their identity. So even if our children are nonverbal, we will go with communication packs, like PEC symbols, sensory toys...we have the child's voice recorded. There's a little separate section within the review document, and that's all recorded in there as well. So yeah, their hobbies and interests."* – Independent Short Breaks Reviewing Officer

<sup>8</sup> Department for Children, Schools and Families (2010) Statutory guidance on how to safeguard and promote the welfare of disabled children using short break.

In addition, the practitioner focus group identified how short break reviews facilitate regular check in which can support with the reassessments of needs should an escalation be identified.

*“I have to say, since we've started the short break review, I think it's been really positive for the service. We're now looking at reviewing children and their needs and we're assessing that process going through... children are now regularly being seen, they're being escalated up for assessment.” -*

Practitioner

## Areas for development

### Initial implementation of new review policy

Feedback from parent carers identified that the initial implementation of the short breaks review policy seemed to lack appropriate planned communication to parent carers and this has contributed to a loss of trust between parent carers and BCT. This was also reflected in the practitioner focus group:

*“The communication of that to some families wasn't good enough, wasn't well thought out, and actually that is what sparked a lot of this, because actually people hadn't had people visited, hadn't had people asking. They felt they were, had been awarded a package for life. Almost. And so that's been very upsetting for a lot of families. And we've learnt an awful lot.” - Practitioner*

Furthermore, the lack of communication contributed to the sense of confusion among families regarding the role of Independent Short Breaks Reviewing Officers and their ability to independently capture the needs of the child or young person.

*“I mean, we've [home manager] got very good relationships with parents and they didn't understand why suddenly this independent person was coming in to review it. And initially, most of them thought they were losing the package. They thought it was being reviewed because it was being taken away.” – Home manager at a registered children's home*

*“We sometimes we didn't understand what was happening with the packages and parents were coming to staff and saying ohh, this has happened, that's happened, and I haven't agreed with it. And because we weren't as involved as we are now, it was difficult for us to support what was what was happening. And so, if packages were being changed and we weren't able to understand the reasons behind those changes, it was really difficult... But now I think having the assessment process prior to the review works a lot better.” – Home manager at a registered children's home*

Despite the learning and the iterative improvements in communication as voiced by practitioners, the impact of the initial implementation of the new short breaks review policy has continued a legacy of distrust from certain parent carers as outlined in the following challenges.

### Fractured relationships with independent short break reviewing officers

<sup>9</sup>From our survey of 12 responses, 58.3% of parent carers responded stating that they felt the outcome of the reviews did not ensure that their child's needs are met. The reasoning behind this was highlighted during the focus groups where parent carers voiced their concern regarding the introduction of short break reviewing officers (previously named independent reviewing officers) and subsequent changes to the packages where support was reinstated pending further assessment.

*“There was no change in our circumstances. Actually, the conditions were worse than when we were first reviewed, and this was one of the main reasons that we got our support back. But also, there was no empathy or understanding from the IRO (short breaks reviewing officer) when we were explaining what our situation is” – Parent carer.*

Despite professionals and parents having the opportunity to comment on review notes, there was a growing concern made by parent carers who were not confident that their child’s needs were being accurately captured during reviews. This was highlighted in the context of the fractured relationship with ISBROs and lack of confidence in their ability to triangulate the concerns of multi-disciplinary professionals.

*“Well, that is completely shutting down the conversation [concerns voiced by professionals being downplayed] and the information then being recorded on the system is completely, you know, inaccurate. So, I think when you do a review, you need to have accurate information and that will only be as good as the information that's put on.” – Parent Carer*

This sentiment is corroborated in the parent carer survey where a response outlined an ISBRO’s decision to remove short breaks support, from their perspective, without proper reasoning and poor communication behind the rationale to changes in support packages.

*The IRO [ISBRO] removed our support with no proper reasoning for this. We are still waiting to find out why she removed the support when there was no positive change in our circumstances. Other professionals involved with our emails have also queried the same. She agreed to one thing when she did the home visit, then went and did something completely different. She spent such a short time with my family but ignored our input and the input from others who have known us for years. – Parent Carer*

The importance of communication with parent carers to explain rationale behind support package changes was recognised in the practitioner focus group however, it is unclear whether the wider workforce acknowledges and implements clear communication pathways.

*“I think now that we can now that we've got the key workers involved with the review process and we've got people that can understand. When we might be reducing this [short break provision], but we're going to increase this because obviously you know [the child] would like to go to the park more so rather than come to Charles house all the time, they're going to have somebody that's going to befriend them and take them out. That's I think that's a lot better now. “ - Home manager at a registered children’s home.*

### **Capturing the needs of disabled children and young people in the family context**

The Statutory guidance for Short Breaks outlines that the case review for a child who is not looked after should focus on outcomes for the child and family under point 3.19<sup>10</sup>. The concerns voiced by parent carers are reflected in research which pinpoints these concerns as threefold: a lack of understanding of their child’s impairments, the challenges that resulted from these impairments and the formulaic nature of assessments which fail to listen to and explore the disabled child’s and family’s lived experience<sup>11</sup>. The response from the parent carer survey exemplifies the concerns highlighted by Clements & Aiello (2022):

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<sup>10</sup> Department for Children, Schools and Families. (2010). Statutory guidance on how to safeguard and promote the welfare of disabled children using short break.

<sup>11</sup> Clements, L., & Aiello, A. L. (2022). Institutionalising parent carer blame. British Association for Social Work and Social Workers of Practice Guidance.

*The fundamental points of my child's learning difficulties appear to be heard; however, they do not appear to be understood. If the core factors affecting my child's learning difficulties were understood, and how these difficulties affect them on a daily basis, my child will not struggle and continue to struggle in school every day as they do so at present. – Parent Carer*

The practitioner focus group identified the previous tensions with outlining expectations to parent carers about triangulating the provision of support from education, health, and social care but highlighting how the short breaks review provides an opportunity to clarify boundaries.

*"I think what's really helpful with these reviews is the boundaries have been made clear because I think sometimes that all the ownership is like, yeah, you're the social workers, please sort everything out, you know, pull out your magic wand out of your Mary Poppins bag. And that's just not the way it is. So what's been really good about these reviews is we're able to focus. So we're like, we're here for the child's social care needs." – Independent Short Breaks Reviewing Officer*

However, the perspective of parent carers from the survey described the review process as *too narrow focus* with 91.7% of parent carers stating that they did not feel that the reassessment accurately captures the needs and challenges of their child and 75% stated that they did not feel that the concerns regarding their child and family are listened to during the review assessment process. This reflection could be partially explained by first challenge where the changes of responsibility from short breaks staff to independent short break review officers and poor communication contributed to the negative experience of parent carers.

*"We don't want to look at the children in isolation within the home if they're also getting some packages from domiciliary care or if they're also struggling with the housing. So we're trying to work really closely with our colleagues and disabled children social care team to look at the whole situation of the family at home and what's going on for that child and that side of it has actually been really helpful. I think we will acknowledge that that when we first started doing the reviews, we were coming at it from a slightly different perspective from the some of the social workers and reviewing officers for the disabled children's social care because we were looking at reviewing our plans and they were looking at reviewing the entire package which is how it should be." – Home manager*

Furthermore, analysis of the anonymised sample data of disabled children and young people who received a reduction in their short break package identified instances where formal complaints were made, packages remained the same despite the review outcome as all complaint outcome letters stated that packages would stay the same until reassessment.

## **Implementing clear support pathways for Preparation for Adulthood**

BCT Short Breaks Policy and Practice guidance identified the need to consider preparation for adulthood during the review planning stages under point 5.

*A review must be held to focus on 'Preparing for Adulthood' planning. This should take place following the reassessment once the child reaches 14.*

Beyond the sentence under point 5, the policy guidance does not outline how the review would be adapted to accommodate for Preparation for Adulthood. The practitioner focus group provided insight on the mechanisms used to plan for independence in the context of communication to parent carers.

*"We do like goals to independence. So, everything that we've done for that child. To aim for their independent goals. And that's kind of by sharing that the monthly summaries that we do with, with*

*the children to the reports, to the IROs [ISBROs] and to the parents and the families.” – Home Manager*

In addition, there was recognition about the importance of the short breaks review providing support for disabled children’s development by identifying the child’s aspirations and targets for independence.

*“We need to make sure we’re doing everything we can to support families and that child to reach their aspirations and to be as independent and supported as they can be going forward. Because in adulthood they won’t get that level of support. And we’ve got a chance to change what’s happening for them developmentally at this point by our interventions.” - Head of Service*

However, parent carers felt that the preparation for adulthood support was inadequate during reviews and did not promote independence for their young person. The rationale behind decreasing support was aimed to prepare the young person and their family for fewer services if the child would not be eligible for ‘care and support’ as a young adult. However, parent carers felt that the changes to short break packages appeared be based on withdrawing support to avoid responsibility for adequate post 16 provision and as they approach the transition to adult social service.

*“There’s definitely an observation of change from when the young person turns 16 that you sort of see BCT using delay tactics to bid their time”. – Parent Carer*

*“[They’ll] reduce your packages 'cause you’re have to get used to it when the child turns 18 about having no respite care”. – Parent carer*

Furthermore, our findings from the parent carer survey identified that 56.3% of parent carers with children aged 14 or above did not receive a review assessment for ‘preparation for adulthood and one response stated that *they still have had no access to prepare to adulthood*. The Statutory guidance for Short Breaks states in the context of the case review for a child who is not looked after having an advocate may be particularly useful for disabled young people moving towards adulthood 3.20<sup>12</sup>

## **Recommendations about the BCT Short Breaks Review Process**

CDC recognises the work undertaken by Birmingham Children’s Trust to produce a policy and protocol for reviewing disabled children and young people’s short breaks support packages. The revised framework demonstrates that BCT aim to deliver on their statutory duties to disabled children and young people and their families by making decisions based on an accurate understanding of the child and family’s needs at different points in time.

Short breaks for families reduce parent carer stress, increase social opportunities for the child and enable families to continue caring in the long-term at home.<sup>13</sup> Research by Together for Disabled Children (2011) has found that the use of short breaks services had a potential cost saving of £1,851,550 for just 22 children who were at risk of being looked after.<sup>14</sup> The positive impact of short breaks on long-term outcomes for

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<sup>12</sup> Department for Children, Schools and Families. (2010). Statutory guidance on how to safeguard and promote the welfare of disabled children using short break.

<sup>13</sup> Robertson, J., Hatton, C., Wells, E., Collins, M., Langer, S., Welch, V., & Emerson, E. (2011). The impacts of short break provision on families with a disabled child: an international literature review. *Health & Social Care in the Community*, 19(4), 337–371. <https://doi.org/10.1111/j.1365-2524.2010.00977.x>

<sup>14</sup> Together for Disabled Children. (2011). *Impact of the Short Breaks Programme on the Prevention of Disabled Children Entering the Looked After System*. Together for Disabled Children.

disabled children and young people means that it is crucial that the process for reviewing short breaks enables BCT to specify how short breaks will meet children's needs and avoid the risk of mechanistic decisions which do not properly consider family circumstances.

The following recommendations from CDC are based on the findings from the focus groups, analysis of the data on children and young people with reviewed short breaks packages, and surveys. They are framed by CDC's understanding of the relevant short breaks legislation and duties on local authorities, and our view that local authorities need to consider a range of matters required by the relevant legislation in order to safeguard and promote the welfare of disabled children and confidently be in a position to meet the duties owed to individual children and families.<sup>15</sup>

The recommendations are categorised into short-term, medium-term, and long-term options for BCT to consider.

## Recommendations to improve the BCT Short Breaks Review Policy and Process

### Short-term recommendations

**Recommendation 1 - BCT to produce additional information and guidance for parent carers about the role of the Independent Short Breaks Reviewing Officer. This should include replacing any reference to the role as an "IRO" in policy guidance, to avoid any confusion with the processes for reviewing care plans of looked after children.**

- Information should build on what is already set out in the letter template to parent carers about the review process of their child's short breaks package.
- The information should be provided to instil confidence with parent carers about the purpose and principles behind the reviewing officer role. There should be an agreed set of guiding principles when structuring the review as voiced by parent carers to instil confidence that reviews take a collaborative, person-centred, safe approach that is fit for purpose.

**Recommendation 2 – BCT should improve the accessibility of the Short Breaks Policy for practitioners and parent carers, including information about parent carers' rights and entitlements to make a complaint if they disagree with the outcome of the review.**

- Practitioners may benefit from an additional introductory section that sets out the overview of legal duties for short breaks and the duties that BCT has towards individual children and families, to set a clear context for the policy and protocol.

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<sup>15</sup> Steve Broach (2017) Short Breaks for Disabled Children: A legal guide for local authorities. Access online here: [Shortbreaks%20legal%20duty%20guide%20for%20LAs.pdf \(ncb.org.uk\)](https://www.ncb.org.uk/shortbreaks%20legal%20duty%20guide%20for%20LAs.pdf) .



- Graphics and flow charts would help to clarify the different timescales for arrangements of the review meetings, the process for gathering information from different agencies and the most recent review of the child's Education Health and Care Plan, and the activities that should be undertaken before the meeting happens, such as checking the spend on the prepaid card.
- The template document of the Community Resource Panel refers to an Information Fact Sheet on the Decision Review Process. CDC were not sent this for the review, but we recommend that BCT consider the accessibility of the information sheet for parent carers.
- BCT should also consider providing additional information for the different individuals who are able to raise queries about the minutes from the review meetings in seven working days after the review meeting takes place. This would be especially beneficial for parent carers who may have anxieties about the evidence base for the Independent Short Breaks Reviewing Officer decisions about their child's short breaks package.
- Parent carers would benefit from targeted guidance from BCT about their rights to make representations or complaints following the outcome of their child's short breaks package review. This should include information about how they can access advocacy support in the local area.
- BCT should also ensure that information about the short breaks review process is provided in accessible formats, such as videos, as well as provide information about how to access translation services for parent carers who require them.
- BCT should also provide additional guidance for parent carers on the legal basis for timelines for reviews. Statutory guidance states that the first review for children in short breaks should take place within three months of their first placement, and subsequent reviews should be at intervals of no less than six months. Clarification of the statutory requirement could be helpful for parent carers who shared with CDC that they would prefer annual, rather than six-monthly, reviews of their child or young person's short breaks plans.

## Medium-term recommendations

### **Recommendation 3 – BCT should provide parent carers and young people with further information on how the short breaks review process accommodates the needs of children and young people on the Preparation for Adulthood pathway.**

- This needs to include additional clear communication for parent carers and young people on how the four preparation for adulthood outcomes<sup>16</sup> will be considered in the short breaks review meetings, and coordinated with any annual reviews of education, health and care plans.

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<sup>16</sup> Good health and wellbeing; Friendships, Relationships and Community; Developing Independent Living Skills; Employment and further education.

- Parent carers and families would benefit from clear information about how young people whose support is reduced or removed can still be supported to grow in independence and prepare for adulthood.
- BCT should liaise with Birmingham City Council to incorporate this guidance into the Preparing for Adulthood section of the Local Offer.

**Recommendation 4 – BCT to introduce a follow-up meeting into their short breaks policy between the Independent Short Breaks Reviewing Officer and parent carers, when the outcome of the short breaks review meeting is to reduce the child’s package of support, to allow a clear discussion of the rationale for any changes and additional time for the Independent Short Breaks Reviewing Officer to understand and ascertain the wishes and feelings of the family.**

- Disagreements about the support that children are entitled to can be fractious and challenging conversations for parent carers, with 58.3% of 12 parent carers who responded to our survey expressing that they did not feel the outcome of the short breaks reviews would ensure their child’s needs would be met.
- CDC’s view is that an opportunity for dedicated time with the Independent Short Breaks Reviewing Officer following the review meeting, to understand that their child’s needs have been accurately captured in the review process, could be a beneficial approach to reducing parent carer anxieties about the rationale for decisions.
- BCT should consider the timescales for this review meeting in the current timescale for parent carers and practitioner having 7 working days to raise their views if they do not feel the minutes from the review meeting are factually correct.

**Recommendation 5 – BCT should introduce mechanisms for improving the attendance from education professionals at short breaks review meetings.**

- CDC recognises that coordinating the engagement of education professionals at the short breaks review meetings in the context of demands on the wider SEND system may be challenging.
- However, to avoid siloes and encourage joint working, BCT may want to consider mechanisms for aligning the short breaks review meeting with an annual review of Education, Health and Care Plans or other statutory meetings. In those cases, they may want to extend the duration of the meeting to longer than 1.5 hours as set out in the short breaks policy.



## Long-term

### **Recommendation 6 – BCT should introduce further guidance for social workers and family support workers on the reassessment process as part of the overall review cycle for disabled children and young people in receipt of short breaks.**

- BCT's policy for reviewing short breaks packages includes information on the frequency and conditions of reassessments, and the requirement to undertake a needs-led assessment to decide whether to provide an overnight short break under section 17 or section 20 of the Children Act 1989.
- However, as the duty to assess both the child and their parent carer is crucial in establishing whether it is necessary to provide short breaks in the context of the Chronically Sick and Disabled Persons Act 1970, additional detail on how social workers should undertake holistic assessments of disabled children and their families, including the impact of the child's disability on their siblings and the needs of parent carers, will help to ensure that decisions in review meetings are proportionate and fair.
- The assessment guidance should also consider analysis of the material circumstances of parent carers in relation to need for direct payments to cover the costs of any services required to meet the child or young person's needs



## Appendix 1 – BCT Short Breaks Review Meeting Process

### Meeting arrangement

- Meetings will be held in person or online depending on parent/s' preference and at the discretion of the Chair
- Meetings will be formal 1-1.5 hour meetings with multi-agency involvement
- Reports from professionals will be shared at review
- After the review the minutes will be shared with the team manager to read and ratify whether they agree with the IRO decisions around the package. They will then have 7 working days to raise any issues
- Minutes will be distributed to the child, family and key professionals and they will have 7 working days to raise their views if they do not feel the minutes are factually correct

### Attendance

Reviews should be attended by everyone involved with the child and contributing to their CiN or Early Help Plan, including:

- Child/young person, where they have the capacity to attend and contribute. This could involve them attending only part of the meeting
- Parent/s
- Advocates for child or parents if they need additional support
- Practitioner (Social Worker, FSW) who is supporting the child and family
- Key professionals with the child, school, Forward Thinking Birmingham, health care professionals etc.
- Carers and people providing short breaks or care to the child

Where professionals or carers providing short breaks are not able to attend, they should be asked to provide their views about the child's situation, changing needs and the impact of short breaks on them. Similarly, any absent parents who cannot attend the Review should be given the opportunity to share their views and observations.

### **Discussion** - Discussion at Reviews will include:

- Checking that the current package of support meets the child's changing needs and amending the short breaks plan accordingly
- Consideration of the child's and family's wishes and feelings
- Checking that the package is being used for its intended purpose and is meeting the child's social care needs.
- Checking the spend on the prepaid card before the review, and that tax, national insurance contributions and other relevant payments are being made.
- Discussing any under or over usage of direct payments
- Checking that any new worker DBS is seen and recorded and if any positive items recorded on it that this is brought to the Team Manager's attention immediately
- Checking that the home care agency visits are happening with the expected frequency and exploring any issues with the service provision.
- Consideration of information from EHCP
- Consideration of continuing health care checklist and other health information
- Consideration of education information

### **Decision**

5 main outcomes

All decisions will be shared with the team manager via the review minutes for them to read and ratify if they are in agreement with the IRO decisions around the package. If there is disagreement the package will remain in place until this is resolved.

## Appendix 2 – Summary of relevant legal framework

### Children Act 1989

Part 3 of the Children Act 1989 sets out local authorities' powers and duties to provide support services for children in need and their families. All disabled children are children 'in need', and there is no requirement on a child to have a particular level of disability to qualify as in need. The primary duty in relation to children 'in need' is to assess their needs in the family context. There is not a duty on local authorities to provide services to all children in need, and short breaks have to be provided where one of the relevant statutory duties applies;<sup>2</sup> the Chronically Sick and Disabled Persons Act 1970 contains relevant specific duties to provide services to disabled children.<sup>3</sup>

### Short Breaks Duty

The starting point for understanding the legal framework for short breaks is section 17(1) of the 1989 Act, and the duty on local authorities to provide services for children in need.

Schedule 2, paragraph 6 of the Children Act 1989 outlines the key duty on local authorities to provide short breaks services for disabled children and young people. This supplements the general duty in section 17(1) to safeguard and promote the welfare of children in need in their area by providing a range of services.

Local authorities are expected to provide short breaks services that provide disabled children and young people with:

- “opportunity to lead lives which are as normal as possible”,
- “minimise the effect on disabled children... of their disabilities” and
- to “assist individuals who provide care for such children to continue to do so, or to do so more effectively, by giving them breaks from caring”.<sup>4</sup>

The effect of this short breaks duty in the Children Act 1989 is that the services provided by every local authority to children in need must include breaks to support families in “crisis”, as well as breaks to ensure that family life can be sustained effectively, in reflection of a spectrum of possible needs and risks.

The 1989 Act also sets out the legal basis for providing overnight short breaks for disabled children and young people. The Short Breaks: Statutory Guidance on how to safeguard and promote the welfare of disabled children using short breaks, published in April 2010, focuses in particular on the decision as to whether overnight short breaks should be provided under section 17 or 20 of the Children Act 1989.<sup>5</sup> Section 17(6) grants local authorities a power to provide accommodation as part of their general duty to safeguard and promote the welfare of children in need; section 20(4) has consequences in relation to the 'looked after' status of the child.

### Chronically Sick and Disabled Person's Act 1970

Other than in relation to residential short breaks, section 2(4) of Chronically Sick and Disabled Person's Act 1970 requires short breaks to be provided by local authorities where an assessment shows that they are 'necessary' to meet the child's needs. In deciding what is 'necessary', local authorities can take account of their own resources. Local authorities can also take account of the other resources available to families, but this must be rationale, reasonable and fair.<sup>6</sup> Once a local authority accepts that it is 'necessary' to meet a child's needs (whether through providing short breaks or through other services), the duty under the CSDPA 1970 is to provide an appropriate level of support.

Steve Broach has written about the gaps in the legal schemes for disabled children and families.<sup>7</sup> Although the CSDPA 1970 specifies that short breaks must be provided when they are necessary to meet the child's needs, the Act is not specific about short breaks and residential short breaks are not within the scope of the legislation.

## **Direct payments**

The duty under CSDPA 1970 to provide services when it is deemed 'necessary' to do so can also be discharged by making a 'direct payment' to the family. The statutory framework for direct payments comes from the section 17A of the Children Act 1989 and the Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2009, and the right for families to ask for direct payments applies whether or not the support is provided under the CSDPA 1970 or the Children Act 1989. Direct payments should enable parent carers to pay for a service which will meet the needs of the child, including periods of residential short breaks or an overnight break away from the child's own home. There are conditions and certain restrictions on the application of direct payments, and one of the key considerations is that the welfare of the child will be safeguarded and promoted through the provision paid for by a direct payment.

## **Accommodation**

The CSDPA 1970 duty does not extend to provision of accommodation. Overnight short breaks are provided to disabled children either under the duty of section 20(1) of the Children Act 1989 when it is appropriate to do so, or under section 17(6) or section 20(4) of the Children Act 1989 for families not in crisis.

## **Breaks for Carers of Disabled Children Regulations 2011 ('the 2011 Regulations')**

The Breaks for Carers of Disabled Children Regulations 2011 ('the 2011 Regulations') supplement the short breaks duty on local authorities. The key regulations are the duty to make provision, the types of services which must be provided and the short break services statement.

## **Duties to individual children and families**

The 2011 Regulations include local authority duties to assess both the child and their parent carer(s) and to decide, after the assessment, whether it is necessary to provide short breaks. When a decision is made that it is necessary to provide short breaks, this must take account of the child's needs and the wider family context. The 2011 Regulations also require local authorities to prepare a short breaks statement which sets out the range of services on offer and the criteria by which eligibility is assessed. Families may also receive short breaks on a non-assessed basis, although this process is out of the scope of the CDC review of BCT.

The barrister Steve Broach has produced guidance that explains the important implications of the 2011 Regulations on how local authorities make decisions about short break support packages for children and families.<sup>8</sup> Local authorities are required to have regard to:

- (a) the needs of carers at crisis point,
- (b) the needs of carers who would be able to care for their disabled child(ren) more effectively if breaks from caring allowed them to
  - (i) engage in education, training or any leisure activities,
  - (ii) meet the needs of other children in the family more effectively, or

- (iii) carry out day to day tasks which they must perform in order to run their household (Regulation 3).<sup>9</sup>

Whether planning and commissioning services or making decisions about individual children's support packages, local authorities should consider the needs of parent carers. In relation to the need to work, the Childcare Act 2006 outlines provision of childcare services; parent carers of disabled children should be able to receive both short breaks and childcare to live 'ordinary lives'. As well as providing a range of services across different activities, local authorities should consider how these short breaks services are designed to meet the needs of carers in their area and publish clear and accessible information about how these services can be accessed.<sup>10</sup>

There are also important duties on the NHS to provide short breaks to disabled children with complex health needs and to co-operate with local authorities in the provision of short breaks generally. It is essential that there is a positive transition to adult services for every disabled young person, and reviews of short breaks packages should incorporate this process and the four preparation for adulthood outcomes.<sup>11</sup>

## Assessments of short breaks

All disabled children are children 'in need' under section 17 of the Children Act 1989 and are therefore entitled to a form of assessment. This should be more than a descriptive document, and explore the child's needs, the impact of the disability of the parent carer, and whether their needs can be met to continue to be met in the future.<sup>12</sup> Although the exact form of the assessment is not set out in legislation, assessments of disabled children must be holistic and take account of the wider family context, including the needs of parent carers and siblings.<sup>13</sup> Given the increasing pressure on local authority budgets, an appropriate assessment is key to identifying where there is a specific duty on the local authority to provide short breaks and should form the basis of how the corresponding care plan will respond to those needs.

## Care Plans

Care plans for disabled children allow local authorities to gather all the relevant information regarding a child and family needs and how the local authority will perform their statutory duties to meet those needs.<sup>14</sup> The 2010 short breaks statutory guidance contains examples of what should be included in a high quality care plan, including outlining the arrangements to review the plan, identification of any risks of harm to the disabled child, and the key objectives of the how, who, what, and when services will be provided and how outcomes and goals will be achieved.

## Eligibility

It is essential that any eligibility criteria for access to short breaks is published by local authorities, including as part of the short breaks services statement and consistent with the duties to individual children and families, particularly the duties to (a) assess all children 'in need' and (b) meet children's assessed needs where it is 'necessary' to do so.

## Reviewing Short Breaks

The statutory guidance for short breaks states that reviews for children who are receiving short breaks but who are not looked after should take place at least every six months,<sup>15</sup> although the needs of the child may require a review to take place more frequently than this statutory minimum. When a child receives short breaks from different providers, the review should be multiagency. Reviews for looked after children must take place in accordance with the Care Planning, Placement and Case Review Regulations 2010.

The short breaks statutory guidance outlines the key requirements for the review process for children who are not looked after:

- Ensure the services 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,
- Holistically review the child's development and progress and seek a multiagency review whenever possible,
- Include the ascertainable wishes and feelings of the child and the views of the family.

The guidance advises that the level of service and the vulnerability of the child may require local authorities to include an independent element in the review, to understand the effectiveness of service provision and outcomes for the child and family, outside of the short breaks provider and those with parental responsibility. This would be similar to an IRO in the case of a looked after children.

Reviews should usually include a face-to-face meeting, however, in certain cases a review might not have to be a meeting, although they should always take place face to face when requested by the family. Local authorities should also consider how to include a review of short breaks with a review of other plans or outcomes for the child, to ease the burden on children, young people and families.

Local authorities should endeavour to record the views of all professionals and individuals involved in the review, decisions taken and the persons responsible for implementing them, and amend the child in need plan as necessary.

## Appendix 3 – Summary outline of post-review conversation between BCT and CDC

Date: 19.12.2023

Attendees: Caroline Coady (CDC), Claire Owens (BCT) & Keith Martin (BCT)

During the meeting several discussion points were made which include:

- Clarification was needed from CDC on whether there was complete adherence to the law regarding the review and which parts we do not meet statutory requirements. Further confirmation was needed in order to decide whether terminology was clear.
- It was recommended by BCT to include a paragraph in the beginning to contextualise and outline the structure of BCT and Birmingham Council in order to clarify the SEND system and the responsibilities.
- It was recommended to include the contextual history of mistrust at the beginning of the review and then outline the opportunities for change that have been undertaken during the CDC review process.
- It was recommended by BCT to situate BCT support in the wider context such as the local offer and community support and finding opportunities to showcase other forms of support that could be better suited without social worker assessment.
- Echoing the sentiment of parent carers who felt confusion during the BCT review – recommendations were put forward that there needs accessibility of information regarding:
  - On what the journey could and should feel like
  - IRO role – changing the language to *reviewing officer* was important in order to avoid confusion with the safeguarding role.
- CDC recommended to include videos as part of accessible comms to allow parent carers to understand review processes.
- BCT outlined how the report will be shared with parent carers and elected officials who do not have an in depth understanding of the disability / SEND sector.
- BCT clarified the position of reviewing officers who do not change care packages only through reassessment, however it was recognised that the subset of data does not reflect this and does not give a clear picture of final outcomes for each of the children.

Key priorities when communicating changes:

- Connect to the local offer in Birmingham and how to navigate the website such as words to search for.
- Changing IRO terms to reviewing officer.
- Changes in care packages undertaken through reassessment.



Structure and tone of the final review will be to develop a narrative around a framework on:

- 1) What is working?
- 2) What needs to shift in terms of the approach and why?
- 3) How this is being taken forward in Birmingham?