

**BRIEFING PAPER**

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Local authority support for children in need (England)

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Summary

This briefing provides information on the definition and identification of "children in need" as set out in the *Children Act 1989*, the assessment process, and the services available to children in need and their families in England.

What is a child in need?

Under section 17 of the *Children Act 1989* (the "1989 Act"), as amended, local authorities are under a general duty "to safeguard and promote the welfare of children within their area who are in need...by providing a range and level of services appropriate to those children's needs."

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

- (a) [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...of services by a local authority...;
- (b) [whose] development is likely to be significantly impaired, or further impaired, without the provision of such services; or
- (c) [is] disabled.

How is it determined if a child is "in need"?

Local areas are able to set their own eligibility criteria for when a case should be referred to children's social care for an assessment to determine whether a child is in need and the nature of any services required.

Under the 1989 Act, local authorities are required to take steps to identify children in need in their area, and any practitioner who thinks that a child may be in need should make a referral to local authority children's services. It is also possible for a parent or professional working with the child to make a referral.

Within one working day of a referral being received, a local authority social worker should make a decision about next steps, including whether the child is in need and should be assessed under section 17 of the 1989 Act. If it is decided to carry out such an assessment, this should usually be concluded within 45 working days of the referral.

What services can be provided to a child in need?

Where, following an assessment, a local authority decides to provide services to a child in need, a multi-agency child in need plan should be developed, setting out which organisations and agencies will provide which services to the child and family.

The type of services that can be provided include:

- advice, guidance and counselling
- occupational, social, cultural, or recreational activities
- home help
- 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 their family to have a holiday
- such steps that are practicable to enable a child in need (who is not a looked after child) who is living apart from their family to live with their family, or to promote contact between them and their family (if necessary in order to safeguard or promote their welfare)

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- day care for a child if they are under 5 years of age but not yet attending school
- care or supervised activities (either outside school hours or during school holidays) for a child attending any school
- accommodation
- assistance in kind or in cash

Any service 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".

Can charges be made for providing services?

Local authorities may charge what they consider reasonable for providing services to a child in need and their family (but not for advice, guidance or counselling). Local authorities are not, however, under a duty to charge for services and they may not charge more than a person can "reasonably be expected to pay". In addition, a person cannot be charged at all if at the time the services were provided they were in receipt of certain benefits.

1. Introduction

As set out in more detail in section 2.1 below, a child is classed as “in need” if they meet a definition set out in section 17 of the *Children Act 1989*, as amended. This covers a wide range of children requiring varying types of statutory intervention from local authority children’s services, including:

- **Children on a Child in Need Plan:** where a local authority decides, following an assessment under section 17 of the *Children Act 1989*, that a child requires additional services to achieve a reasonable level of health or development. The local authority is responsible for determining what services should be provided.
- **Children on a Child Protection Plan:** where there is a reasonable suspicion that a child is suffering or likely to suffer significant harm, a local authority can launch an investigation into their welfare under section 47 of the *Children Act 1989*. If concerns are substantiated, then a child protection plan is put in place.
- **Looked After Children:** the most severe cases, where children are taken into the care of the local authority. They are likely to be placed with relatives, in foster care, in a children’s home or placed for adoption. This group also includes children in respite care.¹

This briefing is predominantly focused on the first of these groups – that is children for whom a Child in Need Assessment is carried out under section 17 of the *Children Act 1989* and for whom a child in need plan is put in place.

Box 1: Early help

Where a child has additional needs that are “relatively low level” they may receive support from early help services. The Government’s Working Together to Safeguard Children guidance describes early help as “providing support as soon as a problem emerges, at any point in a child’s life.”²

Early help services are provided to children who have needs that can be supported with extra help from the agencies who already know them (e.g. their school or health visitor). This may, for example, include:

- Speech therapy
- Bereavement counselling
- Family or parenting support work
- A referral to a young carer’s group.³

The Working Together guidance notes that providing early help “is more effective in promoting the welfare of children than reacting later.” It adds that effective early help relies on local agencies working together to identify children who would benefit from early help and undertaking assessments of the need for it.

1.1 Number and characteristics of children in need

As at 31 March 2019, there were 399,510 children in need in England, a rate of 334.2 per 10,000 children aged under 18 years. This included 52,260

¹ Department for Education, [Children in need of help and protection – CIN review: final data and analysis](#), June 2019, p5

² HM Government, [Working Together to Safeguard Children](#), July 2018, pp12-14

³ Family Rights Group, [Family support advice sheet](#), last accessed 9 December 2019, pp1 & 6-7

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children who were the subject of a child protection plan (excluding any who were looked after) and 78,150 looked after children.⁴

Following the launch of the Children in Need Review (see section 1.2), the Department for Education published a range of new data and analysis on children in need, including on:

- the characteristics of children in need
- overlaps with other disadvantages such as special educational needs
- the experiences of children in need through social care and school
- outcomes from the early years through education and into adulthood.⁵

The [final data and analysis](#) was published in June 2019. The main findings included:

- There were at least 1.6 million children in need of social care services between 2012-13 and 2017-18. This equates to around 1 in 10 children in 2018 who were in need at some point in the previous six years.
- Pupils who have been in need of social care services at some point between 2012-13 to 2017-18 are present in 98% of state schools; fewer than 500 schools do not have a single pupil known to have been in need since 2012-13.
- Children who have needed a social worker do significantly worse than others at every stage of education.
- Pupils who were in need at the end of Key Stage 4 were around 3 times less likely to go on to study A levels at age 16, and almost 5 times less likely to enter higher education at age 18.
- Almost two-thirds of children who were looked after in 2017-18 had spent some time on a child in need plan in the previous 5 years (62%), and 39% had spent some time on a child protection plan.⁶

1.2 Children in Need Review

In March 2018 the Department for Education launched a review of children in need. The review included a programme of evidence gathering aimed at understanding “why children in need of help and protection fall behind and what helps them achieve their potential.” It included:

- a [call for evidence](#)
- a [literature review](#) conducted by the Early Intervention Foundation

⁴ Department for Education, [Characteristics of children in need: 2018 to 2019](#), 31 October 2019; Department for Education, [Children looked after in England including adoption: 2018 to 2019](#), 5 December 2019

⁵ Department for Education, [Children in need of help and protection: data and analysis](#), 18 June 2019

⁶ Department for Education, [Children in need of help and protection – CIN review: final data and analysis](#), June 2019, p4

- visits to schools identified as achieving well for children in need of help and protection
- structured conversations with relevant individuals (e.g. social workers, teachers, voluntary organisations etc).⁷

The final report of the review, [Help, protection, education: concluding the Children in Need review](#), was published in June 2019. The review's conclusion committed the Government to taking action across four areas:

- to increase visibility and recognition of children in education
- to keep children in education, so that they benefit from the safety and security that this can offer
- to raise aspiration for children to realise their potential
- to ensure that children receive effective, evidence-based support in and around school.⁸

⁷ Department for Education, [Review of children in need](#), updated 17 June 2019

⁸ As above

2. Defining and identifying children in need

2.1 Definition of a “child in need”

Under section 17 of the *Children Act 1989* (the “1989 Act”), as amended, local authorities are under a general duty “to safeguard and promote the welfare of children within their area who are in need...by providing a range and level of services appropriate to those children’s needs.” As “far as is consistent” with this duty, authorities are required to promote the upbringing of such children by their families. For these purposes, a child is defined as someone under the age of 18 and a child’s family includes any person with parental responsibility for them and any other person they are living with.⁹

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

- (d) [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...of services by a local authority...;
- (e) [whose] development is likely to be significantly impaired, or further impaired, without the provision of such services; or
- (f) [is] disabled.

The Act further clarifies a number of terms used in the definition:

- Development means “physical, intellectual, emotional, social or behavioural development.”
- Disabled means if a child 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.”

2.2 Determining if a child is in need

There is no need for a court order to be made in order for a child to be determined as being in need. Rather, local areas have autonomy to set their own ‘threshold’ (eligibility criteria) for when a case should be referred to children’s social care for an assessment to determine whether a child is in need and the nature of any services required.¹⁰ This should be set out “in a way that is transparent, accessible and easily understood” in a threshold document published by the local safeguarding partners.¹¹

⁹ *Children Act 1989*, sections 17 & 105

¹⁰ HM Government, [Working Together to Safeguard Children](#), July 2018, p35

¹¹ As above, pp15-16

Box 2: Local safeguarding partners

The *Children and Social Work Act 2017* replaced Local Safeguarding Children Boards (LSCBs) with new local arrangements for safeguarding and promoting the welfare of children. A central feature of the new arrangements is that three safeguarding partners – the local authority, NHS Clinical Commissioning Groups (CCGs), and police forces – are responsible for determining how safeguarding arrangements should work in their area for them and relevant agencies.¹²

Local authorities should also develop and publish protocols for assessment, setting out “clear arrangements for how cases will be managed once a child is referred into local authority children’s social care.”¹³ Statutory guidance, “Working Together to Safeguard Children”, sets out a number of principles and parameters of good assessment, including that it should:

- Be child-centred, with a focus on the needs of the child
- Involve children and families
- Be focused on outcomes
- Be transparent and open to challenge
- Build on strengths as well as identifying difficulties.¹⁴

In an advice sheet on family support, the Family Rights Group, a charity that works with parents whose children are in need, explains that, in practice, a child will be in need if [emphasis added]:

- They are disabled – this usually means they have a substantial disability; or
- 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.¹⁵

It adds that a child’s needs will be assessed following:

- Working Together 2018: the government guidance that sets out the basic national framework for assessing and responding to children’s needs;
- Your local safeguarding partners 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
- Your 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.¹⁶

The advice sheet gives the following examples of when a child would be considered by children’s services as being a child in need of support:

¹² HM Government, [Working Together to Safeguard Children](#), July 2018, pp72-3

¹³ As above, pp23-4

¹⁴ As above

¹⁵ Family Rights Group, [Family support advice sheet](#), last updated 1 March 2019, p9

¹⁶ As above, pp12-13

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- Substantially disabled children and young people
- Children with significant emotional and behavioural difficulties (including children and young people at risk of exclusion from school)
- Children and young people with significant caring responsibilities. If a local authority thinks that a young carer may need support they must carry out a young carers assessment.
- Children without accommodation or living in an unsafe physical environment
- Some children in detention
- Vulnerable teenagers where relationships have broken down at home
- Unaccompanied children from abroad
- Children who persistently self-harm or run away
- Children returning home from care to live with their families.¹⁷

Assessing the needs of disabled children and young carers

The statutory guidance, *Working Together to Safeguard Children*, sets out some additional requirements for local authorities when assessing the needs of children in specific groups, including

- **Disabled children:** when undertaking an assessment of a disabled child, the local authority must also consider whether it is necessary to provide support under section 2 of the *Chronically Sick and Disabled Persons Act 1970* (CSDA). Where an authority is satisfied that the identified services can be provided under the 1970 Act, it must arrange that support.¹⁸ Unlike under the *Children Act 1989*, if a child is assessed as needing help under the CSDA they have an enforceable right to receive that help.¹⁹ See page 31-36 of the [Family Rights Group's advice sheet on family support](#) for further information.
- **Young carers:** if a local authority considers that a young carer may have support needs, it must carry out a young carer's assessment under section 17ZA of the 1989 Act. See section 3.4 of the [Family Rights Group's advice sheet](#) for further information.

2.3 Identifying children in need

Under the 1989 Act, local authorities are required to:

- “take reasonable steps to identify the extent to which there are children in need within their area”; and
- publish information about the services it provides to children in need (and other groups); and

¹⁷ Family Rights Group, [Family support advice sheet](#), last updated 1 March 2019, p10

¹⁸ HM Government, [Working Together to Safeguard Children](#), July 2018, p21

¹⁹ Family Rights Group, [Family support advice sheet](#), last accessed 9 December 2019, p34

- “take such steps as are reasonably practicable to ensure that those who might benefit from the services receive the information relevant to them”.²⁰

The Working Together guidance states that if at any time it is considered that a child may be in need as defined by the 1989 Act “a referral should be made immediately to local authority children’s social care.” The referral can, it adds, “be made by any practitioner.”²¹ The need for an assessment under section 17 may, for example, come to light during an “early help assessment” (see box 1).

Box 3: Can a parent refuse an assessment, or support, for their child?

A parent does not have to agree to an assessment for their child or to any support being provided. However, the Family Rights Group states that it may be unwise to refuse for a number of reasons, including that:

- The child’s difficulties may get worse if not addressed.
- If a parent refuses to accept support for their child, a social worker may be concerned about whether the child is safe and well-cared for. They may, as a result, decide to start child protection procedures instead.

It adds that if a parent refuses an assessment or support, it is a good idea for them to show they are meeting their child’s needs in some other way. It adds that legal advice should also be sought.²²

It is also possible for a parent, carer or professional working with the child (if they have the parent’s permission) to request an assessment to determine if a child is in need. A child may also ask themselves to be assessed “if they are old enough and mature enough to understand what they are asking for and why”.²³ The Working Together to Safeguard Children guidance states that:

Anyone who has concerns about a child’s welfare should make a referral to local authority children’s social care and should do so immediately if there is a concern that the child is suffering significant harm or is likely to do so. Practitioners who make a referral should always follow up their concerns if they are not satisfied with the response.²⁴

Box 4: What can a person do if an assessment is refused?

The [Family Rights Group’s advice sheet on family support](#) provides information on what a person should do if they are refused an assessment for their child or are unhappy with the outcome of an assessment. It states, among other things, 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.
- You could also ask the social worker for the local threshold document and local eligibility criteria for supporting children who are in need, to see whether they match your child’s needs. If you feel that your child’s needs fit within the local eligibility criteria, you need to make this clear to the social worker.
- Sometimes, local authorities refuse to provide services unless the child is the subject of a child protection plan. This is wrong – services can and should be provided early depending on the needs of any individual child...

²⁰ *Children Act 1989*, schedule 2, para 1

²¹ HM Government, [Working Together to Safeguard Children](#), July 2018, p14

²² Family Rights Group, [Family support advice sheet](#), last updated 1 March 2019, pp29-30

²³ As above, p11

²⁴ HM Government, [Working Together to Safeguard Children](#), July 2018, p16

In terms of other steps that can be considered, the advice sheet states that a person could, among other things ask for an early help assessment instead and/or ask for the decision to be formally reviewed through the complaints procedure.²⁵

2.4 Timeframes for assessments

Working Together to Safeguard Children sets out that “within one working day of a referral [to children’s services] being received, a local authority social worker should make a decision about next steps and the type of response required.”²⁶ This will include determining whether:

- The child is in need and should be assessed under section 17 of the 1989 Act.
- The child requires immediate protection and urgent action is required. If so, action must be taken by a social worker, or the police or the NSPCC if removal is required, as soon as possible after the referral.
- There is reasonable cause to suspect that the child is suffering or likely to suffer significant harm, and whether the child must be assessed under section 47 of the 1989 Act.

If it is decided to carry out an assessment under section 17 of the 1989 Act, the guidance sets out that the maximum timescale:

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.²⁷

The guidance makes clear, however, that it is not necessary to wait until the assessment is complete to provide necessary services:

Whatever the timescale for assessment, where particular needs are identified at any stage of the assessment, social workers should not wait until the assessment reaches a conclusion before commissioning services to support the child and their family. In some cases, the needs of the child will mean that a quick assessment will be required.²⁸

Where information gathered during an assessment results in a suspicion that the child is suffering or likely to suffer significant harm, the local authority should hold a strategy discussion to decide whether it must initiate enquiries under section 47 of the 1989 Act.²⁹

²⁵ Family Rights Group, [Family support advice sheet](#), last updated 1 March 2019, pp30-1

²⁶ HM Government, [Working Together to Safeguard Children](#), July 2018, p30

²⁷ As above, p31

²⁸ As above

²⁹ As above, p35

3. Support available to children in need

3.1 Child in need plans

Where, following an assessment, a local authority decides to provide services to a child in need, a multi-agency child in need plan should be developed, which should set out which organisations and agencies will provide which services to the child and family. Working Together to Safeguard Children states that the plan should “set clear measurable outcomes for the child and expectations for the parents”. It should also “reflect the positive aspects of the family situation as well as the weaknesses.”³⁰

Box 5: When a child moves to another local authority

Where a child in need moves permanently to another local authority, Working Together to Safeguard Children states that the original authority should “ensure that all relevant (including the child in need plan) information is shared with the receiving authority as soon as possible.” The guidance adds that the receiving local authority should consider whether support services are still required, based on a re-assessment of the child’s needs. Support should, the guidance states, continue to be provided by the original authority in the intervening period.³¹

The Family Rights Group’s advice sheet on family support provides further information on the development of a child in need plan following an assessment:

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.³²

3.2 What services may be provided?

In cases where a child’s needs are “relatively low level”, “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)”.³³

³⁰ HM Government, [Working Together to Safeguard Children](#), July 2018, p35

³¹ As above

³² Family Rights Group, [Family support advice sheet](#), last updated 1 March 2019, p19

³³ HM Government, [Working Together to Safeguard Children](#), July 2018, p35

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

- advice, guidance and counselling (schedule 2, paragraph 8)
- occupational, social, cultural, or recreational activities (schedule 2, paragraph 8)
- home help (which may include laundry facilities) (schedule 2, paragraph 8)
- 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 (schedule 2, paragraph 8)
- assistance to enable the child concerned and his family to have a holiday (schedule 2, paragraph 8)
- such steps that are practicable to enable a child in need (who is not a looked after child) who is living apart from their family to live with their family, or to promote contact between them and their family (if necessary in order to safeguard or promote their welfare) (schedule 2, paragraph 10).
- day care for a child if they are under 5 years of age but not yet attending school (section 18)
- care or supervised activities (either outside school hours or during school holidays) for a child attending any school (section 18)
- accommodation (section 17 (see section below))
- assistance in kind or in cash (section 17).³⁴

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".³⁵

Local authorities are required to publish information about the services they provide under the 1989 Act.³⁶

The Family Rights Group's advice sheet on family support provides further information on the range of services that is generally available (section 3.5). It notes that, in practice, "the support offered will vary depending on [the] child's assessed needs, the local threshold document and children services' annual budget." It adds that families generally "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 with children's services." There are, however, some circumstances when families do have a right to support – for example:

³⁴ *Children Act 1989* (as amended), sections 17, 18 and 20, schedule 2, paras 8, 10

³⁵ As above, section 17(3)

³⁶ As above, schedule 2, para 1

- families of children with Education, Health and Care (EHC) plans have a right to the support identified in the plan
- families of eligible disabled children have a right to direct payments.³⁷

Box 6: Support for disabled children

Generally, the help available for disabled children is the same as that for other children in need. However, there are some additional services including:

- **Direct payments:** payments (or vouchers) can be made by children's services to the parent/carer of a child to enable them to buy services directly. If a disabled child has been assessed as in need, a parent/carer has a right to ask for direct payments, but they must use them to buy in the help their child has been assessed as needing.
- **Personal budgets:** a personal budget is the amount of money available to meet the services that the disabled child is assessed as needing. They allow a disabled person to control what services they want to use and who provides them. Unlike direct payments, there is no right to a personal budget.
- **Short breaks/respice care:** since 2011, short breaks have been one of the range of services that local authorities must have available in their area for disabled children. Local authorities must publish their policy on how they decide who can have short breaks. (Short breaks *may* also be provided to children in need who are not disabled). Further information is available in [guidance](#) published by the Department for Education.³⁸

Section 4 of [the Family Rights Group's advice sheet](#) on family support provides more detailed information on support for disabled children in need.

3.3 Accommodation for a child in need

Local authorities have the power to provide accommodation to a child in need using their general powers under section 17 of the *Children Act 1989*. The Family Rights Group notes that this power may be used to help a family access accommodation by paying a deposit and rent in advance, or by enabling them to meet a shortfall in rent. It may also be used to help fund accommodation for a child and their family if they are homeless.³⁹

In addition, under section 20 of the 1989 Act, local authorities have a duty to provide accommodation to children in need in their area who require it because:

- There is no one who has parental responsibility for them; or
- They are lost or abandoned; or
- The person who has been caring for them is prevented from providing them with suitable accommodation or care or
- They have reached 16 and their welfare is "likely to be seriously prejudiced" if they are not provided with accommodation.

A local authority may not provide accommodation under section 20 if someone who has parental responsibility for the child, and is willing and able to arrange accommodation for them, objects. Such a person may also

³⁷ Family Rights Group, [Family support advice sheet](#), last updated 1 March 2019, pp21-2

³⁸ Department for Education, [Short break care: how local authorities should provide it](#), March 2011

³⁹ Family Rights Group, [Family support advice sheet](#), last updated 1 March 2019, p22

remove the child from the local authority-provided accommodation at any time.⁴⁰ Consideration must also be given to the wishes of the child.⁴¹

When a child is provided with accommodation under section 20 (sometimes referred to as a voluntary arrangement) they are a looked after child.⁴²

Section 3.6 of the [Family Rights Group's advice sheet on family support](#) provides more information on the provision of accommodation for a child in need.

3.4 Charging for support provided

Under section 29 of the *Children Act 1989* local authorities may charge what they consider reasonable for providing services to a child in need and their family (but not for advice, guidance or counselling). 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.⁴³

Local authorities are not, however, under a duty to charge for services provided and they may not charge more than a person can "reasonably be expected to pay" if their means are insufficient to pay the charge.⁴⁴ The Family Rights Group states that "to work out what is 'reasonable' [a local authority] must look at [a] family's weekly income and expenses. They can only ask...for a contribution towards the cost of support for [a] child out of any income that is left".⁴⁵

In addition, the 1989 Act provides that a person cannot be charged at all if at the time the services were provided they were in receipt of any of the following benefits:

- 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;
- income-based jobseeker's allowance; or
- income-related employment and support allowance.⁴⁶

Local authorities may also not charge a parent for services if their child is over 16 and in a voluntary arrangement (see section 3.3 above). They can ask the child to contribute to the cost of maintenance, but this will depend on their expenses and income.⁴⁷

⁴⁰ This does not apply, however, if a person who is named in a child arrangements order as a person with whom the child is to live, who is a special guardian of the child, or who has care of the child by virtue of court order, agrees to the child being looked after in accommodation provided by the local authority.

⁴¹ *Children Act 1989*, section 20

⁴² Family Rights Group, [Family support advice sheet](#), last updated 1 March 2019, p23

⁴³ *Children Act 1989*, section 29

⁴⁴ As above, section 29(2)

⁴⁵ Family Rights Group, [Family support advice sheet](#), last updated 1 March 2019, p28

⁴⁶ *Children Act 1989*, section 29(3)

⁴⁷ Family Rights Group, [Family support advice sheet](#), last updated 1 March 2019, p29; *Children Act 1989*, schedule 2, paragraph 21

4. Support for migrant families

People with certain immigration status types are classified as “subject to immigration control” and, as a result of this, have no recourse to public funds (NRPF). This means that they have no entitlement to certain welfare benefits, homelessness assistance and an allocation of social housing.⁴⁸

People with NRPF are, however, able to receive services under section 17 of the *Children Act 1989*, but in some cases only if it is necessary to prevent a breach of their human rights or European treaty rights. This is explained in more detail below.

Further information on this area is available in the following resources published by the NRPF Network, a “network of local authorities and partner organisations focusing on the statutory response to migrants with care needs who have no recourse to public funds (NRPF)”:

- [Social services support for people with NRPF](#), NRPF Network website
- NRPF Network, [Assessing and supporting children and families who have no recourse to public funds \(NRPF\): practice guidance for local authorities](#), April 2018

4.1 People excluded from support

People or parents in certain groups (excluded groups) can only receive support under section 17 of the 1989 Act where such support is necessary to prevent a breach of their human rights or EU treaty rights. The exclusion applies to five groups, as set out in Schedule 3 of the *Nationality, Immigration and Asylum Act 2002*:

- European Economic Area (EEA) nationals (not British citizens)
- People who are unlawfully present in the UK (including: visa overstayers; illegal entrants and refused asylum seekers who claimed asylum in-country, rather than at port of entry)
- People with refugee status that has been granted by an EEA country
- Refused asylum seekers who have failed to comply with removal directions
- Refused asylum seeking families that the Home Office has issued with certification confirming that they have failed to take steps to leave the UK voluntarily.⁴⁹

The exclusions do not apply to children, but when a parent is in an excluded group the whole family may be prevented from receiving housing and financial support. [Guidance for local authorities published by the NRPF Network](#) explains:

As accommodation and financial support is provided to the family, when parents fall into one of the excluded categories, the family as a

⁴⁸ The definition of “subject to immigration control” is set out in section 115(9) of the *Immigration and Asylum Act 1999*

⁴⁹ [Social services support for people with NRPF](#), NRPF Network, last accessed 10 December 2019

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whole will be treated as excluded. Whilst a child remains living with their parents, the duty of the local authority to provide for the child's needs depends on whether the parent is ineligible under Schedule 3.

Local authorities are not prohibited by Schedule 3 from providing assistance (other than accommodation and financial support) directly to a child in an NRPF family, for example, help required to meet the needs of a disabled child.⁵⁰

When a person with NRPF approaches social services for assistance, the council will check their immigration status with the Home Office in order to establish whether the exclusion applies. If an exclusion does apply, "a human rights assessment will also need to be undertaken in conjunction with the child in need assessment in order to determine whether support must be provided to prevent a breach of the family's human rights or rights under EU treaties."⁵¹

Schedule 12 of the *Immigration Act 2016* provides for changes to the definitions of people excluded from section 17 support. However, the provisions are not currently in force.

4.2 Non-excluded families with NRPF

The Schedule 3 exclusions do not apply to all families with NRPF. The NRPF Network explains that families with the following immigration statuses are required to be provided with assistance if they are found to be eligible following a child in need assessment:

- Leave to enter or remain with NRPF
- European right to reside as the primary carer of a British or EEA national child,
- European right to reside as the primary carer of a child (in education) of a former EEA worker
- Asylum seeker (a person who has claimed asylum and has a pending asylum application/appeal)
- Refused asylum seeker who claimed asylum at port of entry rather than in-country (unless they have failed to cooperate with removal directions or are a family certified as not having taken steps to leave the UK voluntarily).⁵²

However, if someone has NRPF because they are seeking asylum, or is the dependent of an asylum-seeker, then the Home Office can provide support if they are at risk of destitution under section 95 of the *Immigration and Asylum Act 1999*. Local authorities are specifically prohibited from providing accommodation or "any essential living needs" under section 17 of the *Children Act 1989* if a person is eligible for section 95 support.⁵³

⁵⁰ NRPF Network, [Assessing and supporting children and families who have no recourse to public funds](#) (NRPF), April 2018, pp16-7

⁵¹ As above, p31

⁵² [Social services support for people with NRPF](#), NRPF Network, last accessed 10 December 2019

⁵³ *Immigration and Asylum Act 1999*, section 122

5. Relevant support organisations

There are a number of organisations which can provide tailored advice to parents in relation to the topics covered in this briefing. These include:

- [Child Law Advice](#), 0300 330 5480. See also their webpage: [Child in need](#).
- [Contact a Family](#) (for families with disabled children), freephone 0808 808 3555
- [Family Rights Group](#), freephone 0808 801 0366. See also their advice sheet: [Family Support](#).
- [Independent Parental Special Educational Advice](#) (IPSEA) (for families with children with special educational needs).

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