



Department  
for Education



Department  
of Health

# **Statutory visits to children with special educational needs and disabilities or health conditions in long- term residential settings**

**Statutory guidance for local authorities,  
health bodies and health or educational  
establishments**

**November 2017**

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# Introduction

## About this guidance

This is statutory guidance from the Department for Education. This means that recipients must have regard to it when carrying out duties relating to health and safety and security issues. The guidance covers safeguarding and promoting the welfare of children and young people placed in residential schools, hospitals, and other residential establishments for consecutive periods of three months or more. This guidance does not apply to looked-after children<sup>1</sup>.

'Responsible local authorities' are required to visit these children regularly, maintain contact, and intervene as appropriate when there are significant changes in their circumstances. Reports of such visits **must** consider whether or not the local authority should provide any services to support the continuing active involvement of the child or young person's family in their life and what other steps it should take under the Children Act 1989 to safeguard and promote the child or young person's welfare.

This guidance is issued under Section 7 of the Local Authority Social Services Act 1970, which requires local authorities exercising their social services functions to act under the general guidance of the Secretary of State. Local authorities are required to act in accordance with this guidance unless exceptional reasons justify a variation.

Local authorities and health partners/agencies in England must also have regard to it when exercising their functions under section 10 of the Children Act 2004.

The guidance applies in relation to England only.

## Expiry or review date

This guidance will next be reviewed in 2020 to ensure that it accurately reflects current legislation and practice.

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<sup>1</sup> See section 3 for more information on why this guidance does not apply to looked-after children.

## What legislation does this guidance refer to?

- Children and Families Act 2014, Part 3 – Sections 19, 25, 26, 28, 31, 42 and 44 in particular (2014 Act)
- Visits to Children in Long-Term Residential Care Regulations 2011 (2011 Regulations)
- Children and Young Persons Act 2008, Sections 17-19 (2008 Act)
- Children Act 2004, Sections 10,11 and 25 (2004 Act)
- Children Act 1989 (1989 Act)

Sections 17 to 19 of the Children and Young Persons Act 2008 amended Sections 85 and 86 of the Children Act 1989<sup>2</sup> to strengthen the duties placed on those who are responsible for safeguarding and promoting the welfare of children and young people placed in health, education and other residential establishments for intended consecutive periods of three months or more:

- Section 85 applies to children or young people who are placed in residential establishments by health bodies or by local authorities exercising education functions; and
- Section 86 applies to children or young people placed in residential care homes or independent hospitals, including hospices, by health bodies or local authorities.

Sections 85 and 86 do not apply to looked-after children who are accommodated by local authorities under Section 20 of the Children Act 1989 with the voluntary agreement of their parents, or subject to care orders under Section 31 of that Act. These children are subject to different legal provisions and guidance under the Children Act 1989<sup>3</sup>, in particular, the statutory guidance for local authorities on Care Planning, Placement and Case Review, which sets out the requirements for visits and reviews of a looked-after child.

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<sup>2</sup> Sections 17 to 19 amend sections 85 and 86 of the 1989 Act and insert sections 86A and new paragraph 8A in Schedule 2 to the 1989 Act.

<sup>3</sup> Section 23ZA of the Children Act 1989 and Working Together to safeguard children (2015\0 (statutory guidance)

## Who is this guidance for?

This guidance is for

- Local authorities;
- Health bodies, including NHS England and Clinical Commissioning Groups (CCGs) when they are commissioning relevant care services;
- Directors of Children's Services in England;<sup>4</sup>
- Managers of residential care homes, or independent hospitals, including hospices and Assessment and Treatment Units;
- Managers of residential education establishments for children and young people, including residential special schools; and
- Children and young people who are, or may be placed, in long-term residential care and their families.

It is important that all organisations involved work together in order to improve the well-being of these children living away from home.

For the purpose of this guidance, 'long-term' is defined as when a child or young person is provided with residential accommodation for a consecutive period of at least three months, or when there is an intention to provide accommodation for that period. The consecutive three months would not be broken by short periods away from the accommodation, for example, if the child visited their family for the occasional weekend during that period.

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<sup>4</sup> This guidance applies to children and young people placed in establishments in England. If children and young people from England are placed in residential establishments in Wales then Directors of Children's Services should ensure they are fully aware of the guidance published by the Welsh Assembly *Visits to Children in Long-term Residential Care Regulations 2011* [www.cymru.gov.uk](http://www.cymru.gov.uk)

## Summary

### A note on key terms

**Accommodating authority:** The health body or local authority which is arranging the placement for a child or young person.

**Host authority:** The local authority in which the institution providing the placement is situated.

**Home authority:** The local authority in whose area the child or young person is ordinarily resident.

**Responsible authority:** The local authority that is responsible for monitoring and reviewing the progress and well-being of a child or young person who is placed in long-term residential care, and for arranging visits in order to safeguard and promote their welfare. The responsible authority could be the accommodating authority and/or the host authority (see the table on page 8 below).

In line with the model of care described in *Transforming Care*<sup>5</sup>, any local authority or health body that is placing a child or young person in long-term residential care should, wherever possible, seek first to provide a residential placement that is near to the child's home (and be prepared to show it has done so).

When arranging a residential placement, the accommodating authority should have regard to the views, wishes and feelings of the child or young person and their family. They should ensure the child or young person and their family are provided with impartial information and support so that they can be as fully involved as possible in making decisions about the child or young person's future accommodation. Some disabled children and young people, such as those who have learning disabilities and/or are on the autism spectrum, may need support to help them understand the issues involved in relation to placements. They, and other children and young people, may need support in communicating their wishes and feelings. This will depend on their individual needs and could include use of alternative and augmentative communication, British Sign Language Interpreters, and advocates.

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<sup>5</sup> Transforming Care – A national response to Winterbourne View Hospital (Department of Health, 2012)

When a child or young person is placed in long-term residential care the ‘responsible local authority’ must visit them to assess whether their welfare is adequately safeguarded and promoted.

The ‘responsible local authority’ will usually be the local authority in whose area the child or young person was ordinarily resident at the time the placement was made – the child or young person’s home authority. If the placement is in the area of another local authority, the responsible local authority will depend on whether the placement is in an educational or a health setting.

The table below shows which local authority is the responsible authority for carrying out visits to safeguard and promote children and young people’s welfare in different circumstances:

<b>Responsibility for visits to children and young people placed in long-term residential settings</b>		
	Placement is within the local authority area where child is ordinarily resident – <i>the home local authority</i>	Placement is within the area of a local authority area where the child is <u>not</u> ordinarily resident – <i>the host local authority</i>
Child or young person is placed in a residential setting  (Under section 85 of Children Act 1989)	<b>Home</b> local authority is the responsible authority	<b>Home</b> local authority is the responsible authority
Child or young person is placed in a residential care home or independent hospital  (Under Section 86 of Children Act 1989)	<b>Home</b> local authority is the responsible authority	<b>Host</b> local authority is the responsible authority

Where a placement is made under Section 85 of the Children Act 1989, the accommodating authority **must** notify the Director of Children’s Services of the responsible local authority. They should do so without delay.

Where the placement is made under Section 86 of the Children Act 1989, the residential establishment **must** notify the Director of Children’s Services in the local authority in whose area it is situated (the host authority).

In either case, where the placement is in the area in which the child is ordinarily resident, the local authority for that area (the home authority) will be the responsible authority. Where the host authority is the responsible authority according to the table above, it is good practice for the accommodating authority to ensure that the home local authority is also made aware of the placement. The responsible authority must nominate a suitably qualified person) as their representative (see 'The local authority representative' section later in this guidance) and that person must visit the child regularly and, as a minimum, in accordance with the following specified timescales<sup>6</sup>:

- Where a child or young person's needs have been assessed for the purposes of section 17 of the Children Act 1989 in the preceding 12 months, the representative **must** visit within three months, and thereafter at intervals of not more than six months.
- Where a child or young person's needs have not been assessed for the purposes of section 17 of the Children Act 1989 in the preceding 12 months, the representative **must** visit within seven working days of the notification and thereafter at intervals of not more than six months.

Visits should assess whether the child or young person's welfare is adequately safeguarded; whether any services are required to promote and safeguard their welfare; the extent to which such services should be provided; and whether other steps should be taken by the responsible authority under the Children Act 1989. Linking visits to other reviews (for example, reviews of Education, Health and Care plans or Care and Treatment Reviews) where possible, can help to support a holistic approach to the needs of the child or young person.

A report **must** be written after each visit covering the child's progress and well-being. This must be shared with all parties specified in Regulation 5 of the Visits to Children in Long-Term Residential Care Regulations 2011, namely:

- the child or young person, unless it would not be appropriate to do so, having regard to their age and understanding;
- any parent of, and any person who is not a parent but who has parental responsibility for, the child or young person, unless to do so would place the child or young person at risk of significant harm;

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<sup>6</sup> Section 86A of the Children Act 1989 and Regulation 3 of The Visits to Children in Long-Term Residential Care Regulations 2011:



- where different from the responsible local authority, the local authority in whose area the child or young person is accommodated; and
- any other person with responsibility for safeguarding and promoting the child or young person's welfare under the 1989 Act.

The responsible authority should take account of the model of care described in *Transforming Care* when considering what support to provide to ensure the continuing active involvement of parents/carers in their child's life.

Where a CCG makes arrangements for a child with continuing care needs to be placed in long-term residential care it will retain responsibility and pay for their continuing health care irrespective of whether the placement is in an institution in the area of another CCG<sup>7</sup>. This does not affect decisions about which local authority has responsibility for visits to safeguard and promote the child's welfare.

Local authorities and other local bodies, including health bodies, **must** cooperate in their planning to support vulnerable children and young people, in assessing their needs, and in commissioning and making appropriate provision. It is important that placements of children and young people in long-term residential care, whether in education or health settings, are discussed jointly by local authorities and health bodies. This will help to ensure that appropriate arrangements are made for safeguarding and promoting their welfare as well as for their wider support needs.

Any plans for safeguarding and promoting the child or young person's welfare should be developed in consultation with the child or young person and their family and take account of information already available about the child or young person. Such information may include a Care Plan; a health assessment or Health Care Plan Care and Treatment Review; Education, Health and Care Plan (EHC plan); statement of special educational needs (SEN); or Individual Development Plan (IDP)<sup>8</sup>.

Plans for safeguarding and promoting the child or young person's welfare should focus on the well-being of the child, the outcomes it is hoped will be achieved and the interventions to be put in place to support achievement of these outcomes. The plan should be reviewed regularly.

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<sup>7</sup> Who pays? Determining responsibility for payments to providers? NHS England (August 2013)

<sup>8</sup> Statements of special educational needs and Individual Development Plans are being replaced by Education, Health and Care plans over a transitional period from 2014 to 2018

# Children in long-term residential care

## Background

Children and young people who spend long periods of time living away from home in residential settings are a vulnerable group. They can be vulnerable to abuse, to a range of poor outcomes and to dwindling contact with their families. Reports about safeguarding arrangements for children<sup>9</sup> have highlighted the particular vulnerability of disabled children living away from home. Reports from the Children's Commissioner for England and national voluntary sector organisations also consider the data on, and experiences of, children and young people placed long-term in residential care away from home and the impact on them and their families<sup>10</sup>.

In 2005, a DfES report<sup>11</sup> estimated that about 12,000 disabled children and young people were living away from home in England, and of these about 1,500 were looked after by local authorities. Most of these 12,000 children and young people had learning and communication impairments which increased their vulnerability.

Children and young people are mostly placed in residential settings when they:

- have been assessed as having special educational needs (SEN) and specialist provision is required in a residential establishment (the Children and Families Act 2014, Part 3); or
- are provided with accommodation by the local authority (Children Act 1989, part 3); or
- are cared for in a residential health setting facilitated by a local health body.

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<sup>9</sup> Commission for Social Care Inspection (2005) *Safeguarding children; the second joint chief inspectors report on arrangements to safeguard children*. Ofsted 2008, *Safeguarding children: the third joint chief inspector's report on arrangements to safeguard children*.

<sup>10</sup> The views and experiences of children in residential special schools, Office of the Children's Commissioner for England (2014); Keeping in touch with home: How to help children and young people with learning disabilities and their families in touch when they are away from home, The Challenging Behaviour Foundation and Mencap (2016); Initial data on patients with a learning disability, autistic spectrum disorder and/or behaviour that challenges who were inpatients on 30 September 2015 (HSCIC) – <http://www.hscic.gov.uk/pub/19428/ld-census-initial-sep15-rep.pdf>; Unprotected, overprotected: meeting the needs of young people with learning disabilities who experience, or are at risk of, sexual exploitation, Barnardo's (2015)

<sup>11</sup> Pinney, A., *Disabled Children in Residential Placements; a report for DfES*, November 2005

When residential provision is arranged for a child or young person, for a period of three months or more, the appropriate responsible authority must be notified (see Summary section earlier in this Guidance). The responsible authority then has a duty to take steps to ensure that the child or young person's welfare is safeguarded.

## **Looked after status**

Where local authorities are involved in decisions about placing children or young people away from home, they should consider whether having looked after status under the Children Act 1989 should apply. Looked after status follows automatically from a child or young person being subject to a care order, or through the child or young person being accommodated by the local authority under certain provisions of the 1989 Act. It entails the development of a detailed Care Plan (including a Personal Education Plan and Health Plan); appointment of an Independent Reviewing Officer to ensure that the Care Plan for a child or young person fully reflects their current needs and that the actions set out in the plan are consistent with the local authority's legal responsibilities towards the child or young person; and an entitlement to further support when the child or young person leaves care.

A judgment should only be made following a thorough assessment of the needs and circumstances of the child or young person and family. The local authority must be clear and transparent about the implications of looked after status and explain the advantages, including eligibility for support on leaving care. It should understand parents' anxieties about their child being 'in care' and explain that when a child or young person is looked after by virtue of being accommodated under Section 20 of the 1989 Act, the local authority does not acquire parental responsibility. This remains with the parents, who should be fully involved in decisions about their child, including the development and review of care plans and placements, and be supported to visit their child throughout any placement.

# Action to be taken for a child placed long term in a residential establishment

## Notification of the placement

It is important for local authorities and health bodies to work in partnership when planning and making long-term residential placements to ensure the child or young person's needs are considered 'in the round', the placement is appropriate for meeting those needs, and the most effective use is made of resources.

Discussions should normally take place between the accommodating authority, the responsible local authority, education, social care and health professionals, and the child or young person and family, **before** a child or young person is placed in a residential setting. This may not always be possible where placements are made in hospitals or Assessment and Treatment Units – for example, when a child or young person has been admitted quickly because of urgent health needs. In these circumstances, discussions with all relevant people and agencies should take place as soon as possible.

Formal notification of all placements should be made without delay so that the responsible authority can fulfil its duty to visit the child or young person to ensure their welfare is safeguarded and promoted. Where a placement has been pre-planned, the responsible authority should be notified before the child or young person takes up the placement. In other circumstances, the notification should be made **on the day** the child or young person is first provided with accommodation, or as soon as practicable thereafter. The responsible authority should also be notified promptly when a placement ends so that changes can be made to visiting arrangements

Where a responsible local authority makes a placement in residential provision outside its area for a child or young person with an EHC plan, it retains responsibility for maintaining and reviewing the plan. In these circumstances, it is helpful for the local authority in whose area the provision is located to be made aware of the placement, in case, for example, safeguarding or other issues arise.

Failure to notify the responsible authority may constitute an offence and could, in the case of S86 placements, lead to a fine<sup>12</sup>.

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<sup>12</sup> Section 86 (4) of the Children Act 1989

## Placements in residential establishments

When a child or young person is placed in an educational establishment, the accommodating authority **must** ensure that the Director of Children's Services<sup>13</sup> of the local authority where the child or young person is ordinarily resident (the 'home' authority) is notified of the placement. Where it is not the accommodating authority, it is important for the relevant CCG also to be made aware of the placement so that it is prepared for any subsequent financial responsibilities for a health care element of the placement.

If the child or young person and their family were not resident in the area of any authority within England or Wales before the placement (for example, if they have come from abroad), then the accommodating authority **must** notify the local authority where the placement is situated, which then becomes the responsible authority for reviewing and supporting the progress and well-being of the child or young person.

Those with parental responsibility for children and young people with learning disabilities and/or autism in 52-week residential schools should be offered the option of ensuring their child's name is on the CCG 'at risk of admission' register (Care and Treatment Review Policy 2015<sup>14</sup>) to assist with strategic planning and commissioning.

## Residential placements in care homes and independent hospitals

When children and young people are provided with accommodation in care homes or independent hospitals (including hospices), the management of the establishment must notify the Director of Children's Services of the local authority where it is located, of this placement. That authority then becomes the responsible authority for this child or young person, irrespective of where the child or young person and their family are ordinarily resident.

Once notified of the placement, the authority should inform the Director of Children's Services of the child's home local authority (where they are ordinarily resident). This will ensure the child's home local authority is both aware of the placement and prepared for any subsequent financial responsibilities it may incur for any education element of the placement.

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<sup>13</sup> In Wales, the Lead Director of Children and Young People's Services

<sup>14</sup> <https://www.england.nhs.uk/wp-content/uploads/2015/10/ctr-policy-guid.pdf>

## Frequency of visits

Once notified, the responsible authority must make arrangements to visit the child in accordance with the Visits to Children in Long-Term Residential Care Regulations 2011.

If the child or young person has not had their needs assessed for the purposes of Section 17 of the Children Act 1989 in the preceding 12 months, the responsible authority **must** ensure that an appropriate representative visits the child within seven working days of receiving notification of the placement.

If the child or young person has had their needs assessed for the purposes of Section 17 of the Children Act 1989 within the last 12 months, and the responsible authority has full access to all the relevant assessments and data, it **must** ensure that an appropriate representative visits the child within three months of receiving notification of the placement.

Thereafter, the representative **must** visit at least every six months.

In addition, the responsible local authority **must** make arrangements to visit whenever reasonably requested to do so by the child or young person and if it believes that a visit is required in order to safeguard and promote the child's or young person's welfare. This might apply if the local authority has any concerns about the child's or young person's welfare or progress as a result of views expressed by the child or young person, their family or carers, their advocate or by the establishment caring for the child or young person.

Children and young people in long-term residential placements who have communication needs may require the support of an advocacy service which is skilled in methods of non-verbal communication. Children detained under the Mental Health Act 1983 have the right to an independent advocate. The responsible local authority should ensure that all children and young people in long-term residential placements have accessible means of requesting a visit. It would also be helpful, in maintaining continuity of support, if reports of the local authority visitor indicated whether advocacy support was requested and provided.

## The local authority representative

The responsible local authority **must** satisfy itself that its representative has the skills and experience to fulfill the statutory requirements. These skills will include:

- an ability to communicate with the child or young person and their parents – this may include competence in or access to different forms of non-verbal communication;
- an understanding of any specific impairments and behaviours the child or young person has (including behaviours that challenge) and their impact on the child or young person and on family life;
- an understanding of child development and the impact of separation on a child or young person's attachments;
- the ability to identify any safeguarding concerns; and
- an understanding of how to promote contact between the child or young person and their family.

It is important that, wherever possible, the same person visits the child or young person on successive visits, in order to build and maintain a relationship with the child or young person and their family and develop an understanding of the behaviour and communication preferences of the child or young person. In most cases, a qualified social worker with whom the child or young person has developed a trusting relationship should be undertaking the visits. But this may not always be possible. In such circumstances, the local authority will need to judge, in light of its knowledge of the child or young person, whether it may be better for them to be visited by another professional known to them.

Whenever possible, the views of the child or young person should be ascertained about who they would prefer to carry out the visits.

## Visits by the local authority representative

It is important for the child or young person to have the opportunity to express their views, wishes and feelings about their accommodation. On each visit, the local authority representative **must** speak to the child or young person in private, unless the child or young person refuses or it is inappropriate due to the child's or young person's age or levels of understanding. If the child or young person does not want a private meeting, the representative should ensure they know the reasons for this.

Where children and young people have significantly impaired communication, the representative should speak directly to those working most closely with the child or young person – for example, their key worker – so they can ascertain their views. Children’s Communication Passports will also help the representative in doing this. Communication Passports are a practical and person-centred way of supporting children, young people and adults who cannot easily speak for themselves and pull together complex information in an easy-to-follow format<sup>15</sup>.

Before each visit, the representative should consult the parents/carers to establish their views about their child’s progress and well-being. There may be good reasons to conduct the visit jointly with the parents/carers.

On each visit the representative **must** assess whether the child or young person’s welfare is being adequately safeguarded and promoted<sup>16</sup>, and should consider how any plans for this are being implemented and whether the intended outcomes for the child or young person are being achieved. The representative **must** also assess whether there are further steps the responsible authority should take to safeguard and promote the welfare of the child or young person or their contact with their family.

The local authority representative has the power to enter a care home or independent hospital to ensure they can meet their responsibilities and safeguard the well-being of the child. If asked, they should produce an authenticated document proving their identity and make clear that they have this authority.

Research<sup>17</sup> suggests that placements away from home are often made to secure specialist provision for children and young people with complex disabilities or mental health issues (including behavioural difficulties), or to establish geographical distance to break patterns of risky or offending behaviour.

Safeguarding issues could involve a range of issues relating to, for example, abuse, child sexual exploitation, bullying, mental health, and behaviour that challenges. The local authority representative will need to be alert to these issues and consider carefully how well, where appropriate, the placement addresses them.

To reflect the particular vulnerabilities of children and young people in 52-week residential settings, there are additional requirements for boarding schools, residential special schools and residential special schools registered as children’s homes. These

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<sup>15</sup> <http://www.communicationpassports.org.uk/Home/>

<sup>16</sup> See *Working Together to Safeguard Children and s86A(3) of the Children Act 1989*

<sup>17</sup> Childhood Wellbeing Research Centre on behalf of the Department for Education



settings must comply with the relevant regulations<sup>18</sup> and standards for their sector which are designed to support arrangements to safeguard and promote the welfare of children and young people in residential settings and typically have requirements in relation to:

- child protection;
- health and well-being;
- promoting positive behaviour and relationships;
- staff recruitment and checks on their suitability;
- staff deployment and supervision of children;
- securing children and young people's views;
- arrangements for recording and responding to complaints; and
- placement, planning and review.

Promoting positive behaviour and relationships includes measures to combat bullying and cyberbullying, disciplinary sanctions, restraint and reasonable force. The National Institute for Clinical Excellence (NICE) has published a guideline offering evidence-based advice on prevention and interventions for children, young people and adults with a learning disability and behaviour that challenges.<sup>19</sup>

Residential settings should be particularly alert to safeguarding and promoting the welfare of children and young people in their care and work with local authorities placing children with them. The representative visiting a child or young person will be able to draw on information available in the residential setting including policies on a range of safeguarding issues.

In residential settings also registered as children's homes, local authority visitors should be aware that the children's home is visited each month by an independent visitor. This person will, where possible, speak to children, parents and staff to establish whether the children are effectively safeguarded and that the conduct of the home promotes children's well-being. Children who attend a school on-site together but have different looked after statuses, may need to be helped to understand why a looked-after child may meet with their social worker and the independent visitor, and a non-looked-after child may meet with the local authority visitor.

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<sup>18</sup> The National Minimum Standards for Boarding Schools; The National Minimum Standards for Residential Special Schools; the National Minimum Standards for FE Colleges which accommodate under 18s; the Guide to the Children's Homes Regulations and Standards; and The Children's Homes Regulations (England) 2015.

<sup>19</sup> Challenging behaviour and learning disabilities: prevention and interventions for people with learning disabilities whose behaviour challenges, NICE (2015) <https://www.nice.org.uk/guidance/ng11>

## Support for children in long-term residential placements

The vast majority of children who are likely to require residential placements for consecutive periods of more than three months should have had a holistic, multi-agency assessment or review of their needs – such as an Education, Health and Care (EHC) needs assessment (for those who have special educational needs) or a Care and Treatment Review. There may be exceptions to this where, for example, children or young people are admitted to learning disability hospitals or Assessment and Treatment Units quickly because of urgent mental health needs. If a child or young person is admitted to hospital before they have had a Care and Treatment Review, such a review must be undertaken as a matter of urgency.

Local authority staff responsible for services for children in need, under the Children Act 1989, should be involved in making decisions about residential placements which are being considered by education and/or health colleagues.

The Children Act 2004 introduced a number of measures to improve co-operation between local agencies to encourage integrated planning, commissioning and delivery of children's services, including a requirement for local authorities and relevant health partners to co-operate with a view to improving the well-being of children.

The Children and Families Act 2014 built on these measures by requiring local authorities and health commissioning bodies to make joint commissioning arrangements for education, health and social care provision for children and young people with special educational needs and disabilities. Local authorities are also required to integrate education, health care and social care provision where they think it would promote the wellbeing of such children and young people.

Children and young people placed in long-term residential settings may well have a statement of special educational needs, Individual Development Plan (IDP)<sup>20</sup> or EHC plan. If they are also a looked after child they will have a Care Plan, which will include a Personal Education Plan and a Health Plan. These plans are most likely to contain information and specify provision that will support arrangements to safeguard and promote the welfare of the child or young person.

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<sup>20</sup> Currently children and young people with Special Educational Needs (SEN) may already have a Statement or Individual Development Plan defining those needs and how they will be supported. The Children and Families Act 2014 introduced Education, Health and Care Plans in England in 2014 to replace statements and IDPs by April 2018.

Plans for supporting and promoting the welfare of a child or young person placed in a health, education or other residential establishment should reflect:

- the desired outcomes of the placement;
- the health, education and care needs of the child or young person;
- any communication needs;
- any behavioural needs;
- provision to be made to support the child or young person's needs;
- arrangements for monitoring and reviewing progress and well-being of the child or young person;
- arrangements for contributing to statutory reviews for the child or young person;
- the visiting arrangements with the local authority representative; and
- the contact and visiting arrangements with parents, family members and other significant individuals in the child's or young person's life.

They should include provision for recording welfare and contact information and ensuring key issues are addressed and should be reviewed regularly during the placement.

Plans can draw on information from other reviews undertaken for different purposes and, where possible and practicable, such reviews should be carried out in parallel with or linked to reviews of plans to safeguard and promote a child or young person's welfare.

Where a child or young person has a statement of special educational needs or an EHC plan, the local authority that maintains it has a duty to review it at least annually. Reviews consider the effectiveness of the special educational provision and any health or social care provision specified in the plan in helping the child or young person to make good progress towards the outcomes specified in the plan and whether the outcomes and supporting targets remain appropriate.

From Year 9 onwards reviews must include a focus on preparing for adulthood, including employment, independent living and participation in society. Transition planning must be reflected in the child or young person's statement or EHC plan and should include planning for young people moving from children's to adult social care and health services. Plans should be person centred, taking full account of the young person's views, aspirations and desired outcomes. Transition plans can also be drawn up for young people with special educational needs who do not have statements or EHC plans.

Further guidance on EHC needs assessments, EHC plans and transition planning can be found in the *SEN and Disability Code of Practice: 0-25 years (January 2015)*.

Guidance on care planning, placement and review can be found in The Children Act 1989 guidance and regulations, Volume 2: Care planning, placement and case review (June 2015) and Volume 3: Planning for Transition to Adulthood. Some of the guidance relates to looked-after children but is also relevant to improving practice for the children who are the subject of this guidance and who are also living away from home.

## Contact with the child or young person's family

It is in the interests of children and young people in all but a minority of cases to remain in contact with their families while they are apart. Research from The Challenging Behaviour Foundation and Mencap<sup>21</sup> highlights how important visits are to families whose children are placed away from home and some of the challenges and barriers families face in securing those visits in practice.

Local authorities **must** make provision for services they consider should be available to safeguard and promote the welfare of accommodated children and young people. These will include services provided with a view to promoting contact between families and children living apart as a result of placements made under Sections 85 or 86 of the Children Act 1989<sup>22</sup>. The types of service local authorities provide or arrange may include, in particular:

- advice, guidance and counselling;
- services necessary to enable the child or young person to visit, or be visited by, members of their family, including assistance with the costs of travel; and,
- assistance to enable the child or young person and members of their family to have a holiday together.

Children and young people living away from home in residential establishments will benefit from contact with brothers and sisters and members of the wider family as well as with parents. Responsible local authorities will wish to ascertain from a child or young person and their family which significant relationships should be promoted.

Often families will require support to maintain contact with their child. They may feel sadness, distress, guilt or other emotions which could lead to a degree of withdrawal from the child. Local authorities will wish to make parents aware of organisations that can help them to come to terms with circumstances and help them in maintaining contact. In

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<sup>21</sup> Keeping in touch with home: How to help children and young people with learning disabilities and their families keep in touch when they are living away from home, The Challenging Behaviour Foundation and Mencap (2016)

<sup>22</sup> Under paragraph 8A of Schedule 2 of the Children Act 1989.

addition to the local Special Educational Needs and Disability Information, Advice and Support Service and Parent Carer Forum, this may include disability organisations with a particular specialist expertise or interest.

## Reports of visits

Under Regulation 5 of the Visits to Children in Long-Term Residential Care Regulations 2011, the representative of the responsible authority must provide a report of each visit. Reports must include the representative's assessment of:

- the child or young person's wishes and feelings about the accommodation provided by the residential placement, so far as the visitor has been able to ascertain them;
- whether the child or young person's welfare is adequately safeguarded and promoted by placement in the accommodation;
- the success of the placement, including any comments made by the child or young person or those caring for the child or young person (it would be helpful to include progress towards identified outcomes);
- whether further visits, in addition to those specified in the Regulations, are required in order to safeguard and promote the child's or young person's welfare;
- any services which the visitor considers should be made available to promote contact between the child or young person and their family; and
- any other steps that should be taken by the responsible authority to safeguard and promote the child's or young person's welfare (these could, for example, include access to particular facilities or community activity).

The representative's reports of visits should highlight any matters of concern or difficulties so that action can be discussed with their supervisor and then, as necessary, with other agencies. It is important for action to address matters of concern or difficulties to be agreed within appropriate timescales. It should be clear who is responsible for taking action. Where there are serious concerns about the child's or young person's welfare and there is dwindling contact with their family, the reasons for this should be explored and the question of the appropriate legal status of the child or young person should be re-considered.

The responsible authority must send a copy of the report to:

- the child or young person, unless this is not appropriate, given their age and understanding;
- the child or young person's parents and/or any person with parental responsibility, unless to do so would place the child or young person at risk of significant harm;
- the local authority where the child or young person is placed, if this is different from the responsible authority; and
- any other person with responsibility for the child's or young person's welfare – this could include extended family who keep in touch and possibly a previous foster carer.

## Further information

### Links to relevant legislation

- Visits to Children in Long-Term Residential Care Regulations 2011  
[www.legislation.gov.uk/uksi/2011/1010/contents/made](http://www.legislation.gov.uk/uksi/2011/1010/contents/made)
- Children and Young Persons Act 2008  
[www.legislation.gov.uk/ukpga/2008/23/contents](http://www.legislation.gov.uk/ukpga/2008/23/contents)
- Children Act 2004 [www.legislation.gov.uk/ukpga/2004/31/contents](http://www.legislation.gov.uk/ukpga/2004/31/contents)
- Children Act 1989 [www.legislation.gov.uk/ukpga/1989/41/contents](http://www.legislation.gov.uk/ukpga/1989/41/contents)
- Children and Families Act 2014  
<http://www.legislation.gov.uk/ukpga/2014/6/contents>
- United Nations Convention on the Rights of the Child  
<http://tinyurl.com/UNCRCtext>
- Mental Capacity Act Code of Practice: Protecting the Vulnerable 2007  
<http://tinyurl.com/MCA-CodeOfPractice2007>

### National Minimum Standards and Quality Standards

- Mental Capacity Act Code of Practice: Protecting the Vulnerable 2007  
<http://tinyurl.com/MCA-CodeOfPractice2007>
- The National Minimum Standards for Boarding Schools  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/416186/20150319\\_nms\\_bs\\_standards.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/416186/20150319_nms_bs_standards.pdf)
- The National Minimum Standards for Residential Special Schools  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/416188/20150319\\_nms\\_rss\\_standards.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/416188/20150319_nms_rss_standards.pdf)
- The National Minimum Standards for FE Colleges which accommodate under 18s  
[http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/@dh/@en/documents/digitalasset/dh\\_4069190.pdf](http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4069190.pdf)
- The Guide to the Children's Homes Regulations and standards  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/463220/Guide\\_to\\_Childrens\\_Home\\_Standards\\_inc\\_quality\\_standards\\_Version\\_1.17\\_FINAL.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/463220/Guide_to_Childrens_Home_Standards_inc_quality_standards_Version_1.17_FINAL.pdf)

## Other relevant departmental advice and guidance

- The Children Act 1989 Regulations and Guidance – Volume 2: Care planning, placement and case review and Volume 3: Planning for transition to adulthood for care leavers (2015)
- Supporting pupils at school with medical conditions  
[www.gov.uk/government/publications/supporting-pupils-at-school-with-medical-conditions--3](http://www.gov.uk/government/publications/supporting-pupils-at-school-with-medical-conditions--3)
- Working Together to Safeguard Children 2015  
[www.gov.uk/government/publications/working-together-to-safeguard-children](http://www.gov.uk/government/publications/working-together-to-safeguard-children)
- 0-25 Special Educational Needs and Disability Code of Practice 0-25  
[www.gov.uk/government/publications/send-code-of-practice-0-to-25](http://www.gov.uk/government/publications/send-code-of-practice-0-to-25)
- NHS England Building the Right Support NHS England 2015  
<https://www.england.nhs.uk/wp-content/uploads/2015/10/ld-nat-imp-plan-oct15.pdf>
- NHS England Care and Treatment Review Policy Guidance 2015  
<https://www.england.nhs.uk/wp-content/uploads/2015/10/ctr-policy-guid.pdf>

## Useful web links

- Council for Disabled Children  
<http://www.councilfordisabledchildren.org.uk/who-we-are>
- Contact a Family: [www.cafamily.org.uk/parentcarerparticipation](http://www.cafamily.org.uk/parentcarerparticipation)
- National Network of Parent Carer Forums: [www.nnpkf.org.uk](http://www.nnpkf.org.uk)
- Children's Education Advisory Service (CEAS)  
[www.gov.uk/childrens-education-advisory-service](http://www.gov.uk/childrens-education-advisory-service)





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for Education



Department  
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