

GUIDANCE: LOCAL AUTHORITY DUTIES AND POWERS TO FUND PROVISIONS TO ENABLE DIGITAL ACCESS FOR DISABLED PEOPLE

FEBRUARY 2021

This guidance and the associated flow-diagram have been prepared as a general guide based on the law as at 11 February 2021. It does not constitute legal advice and should not be relied on as such. Specific advice should be sought for specific circumstances.

INTRODUCTION

This guidance has been produced to assist local authorities to better understand the funding streams available to them to provide a computer device (such as a laptop) and/or telecommunication service (such as broadband) for disabled people through their statutory duties and powers.

The guidance consists of two parts: **1)** a flow-diagram (see bottom of guidance) to easily understand the application of the relevant statutory powers and duties and the departments responsible to provide the provisions; and **2)** brief explanatory notes of those statutory powers and duties and the applicable funding streams.

Note: this guide does not consider grants that a local authority may choose to provide through its own revenue (per its policies) nor does it include mental health aftercare services which are funded jointly with NHS Clinical Commissioning Groups.

DEPARTMENT OF ADULT SOCIAL CARE: POWERS AND DUTIES

1. Section 18, Care Act 2014

This is a statutory duty to meet the eligible care needs of adults or their carers. The criteria for services under the Act are: 1) due to the adult's disability; 2) they are unable to meet two or more (or one in the case of carers) specified care outcomes (as set out below); and 3) which causes an impact on their wellbeing.

Note: local authorities have a discretionary power in the Act to provide support even if the person fails to meet the criteria.

Funding for the provision can be provided where it will help the person meet the following specified care outcomes: 1) Nutrition; 2) Personal hygiene; 3) Toileting; 4) Clothing; 5) safe home use; 6) maintaining a habitable home; 7) developing and maintaining family or personal relationships; 8) accessing work, training or education; 9) accessing the community or services; and/or 10) help with parenting.

Applicable Funding Sources (Streams) For Above Powers and Duties

- Local government revenue funding (this is funding derived from the local government finance settlement, and locally raised revenue (e.g. from business rates and council tax));
- Social Care Precept;
- Adult Social Care Support Grant; *and*
- Better Care Fund.¹

DEPARTMENT OF HOUSING: POWERS AND DUTIES

1. Disabled Facilities Grant – Section 23, Housing Grants, Construction and Regeneration Act 1996 (“HGCR 1996”)

This is a statutory duty to provide funding grants for aids and adaptations to the home of a disabled person where eligible.

Similar to telecare systems and enhanced alarm services,² a housing authority may provide funding for the provisions where its purpose is to help make the disabled person’s home safe for them (for example to enable access to some sort of emergency response service).

Note: generally, even when the grant’s purpose is to prevent harm, the provision would likely still be a duty or service that should be provided by adult or children social services through their powers.

Applicable Funding Sources (Streams) For Above Powers and Duties

- Better Care Fund.³

DEPARTMENT OF CHILDREN SOCIAL SERVICES: POWERS AND DUTIES

¹ House of Commons Library, Briefing Paper, Number CBP07903 (Adult Social Care Funding (England), 11 December 2020, at paras 1.3 and 3-4.

² See paragraphs 8.7 and 20, Home Adaptations Consortium, ‘Delivering Housing Adaptations for Disabled People: A Detailed Guide to Related Legislation, Guidance and Good Practice’, 2013.

³ See paragraph 2.10, ‘2019-20 Better Care Fund: Policy Framework’, Department of Health and Social Care and the Ministry of Housing, Communities and Local Government.

1. Schedule 2(6), Children Act 1989

This is a general statutory duty of local authorities to safeguard and promote the needs of disabled children in their area.

As such, funding for the provision (as a service) can be made available to disabled children in their area where doing so will: 1) minimise the effect of their impairment; 2) give them the opportunity to lead normal lives; and/or 3) will provide breaks from caring to those who care for them.

2. Section 2, Chronically Sick and Disabled Persons Act 1970 (“CSDPA 1970”)

Unlike above, this is an individualised statutory duty to meet the needs of a disabled child by providing services. A local authority must provide funding for the provisions should it be necessary to meet a child’s disability need(s).

Funding for the provisions can be provided where it is necessary: 1) to practically assist them in their home; 2) for their recreation; 3) for their home adaptation needs or to make their home more comfortable/convenient to them; and/or 4) to provide a telecommunication service.

3. Section 42, Children and Families Act 2014

This is a statutory duty to secure the identified provisions in an Education, Health and Care Plan (EHCP).

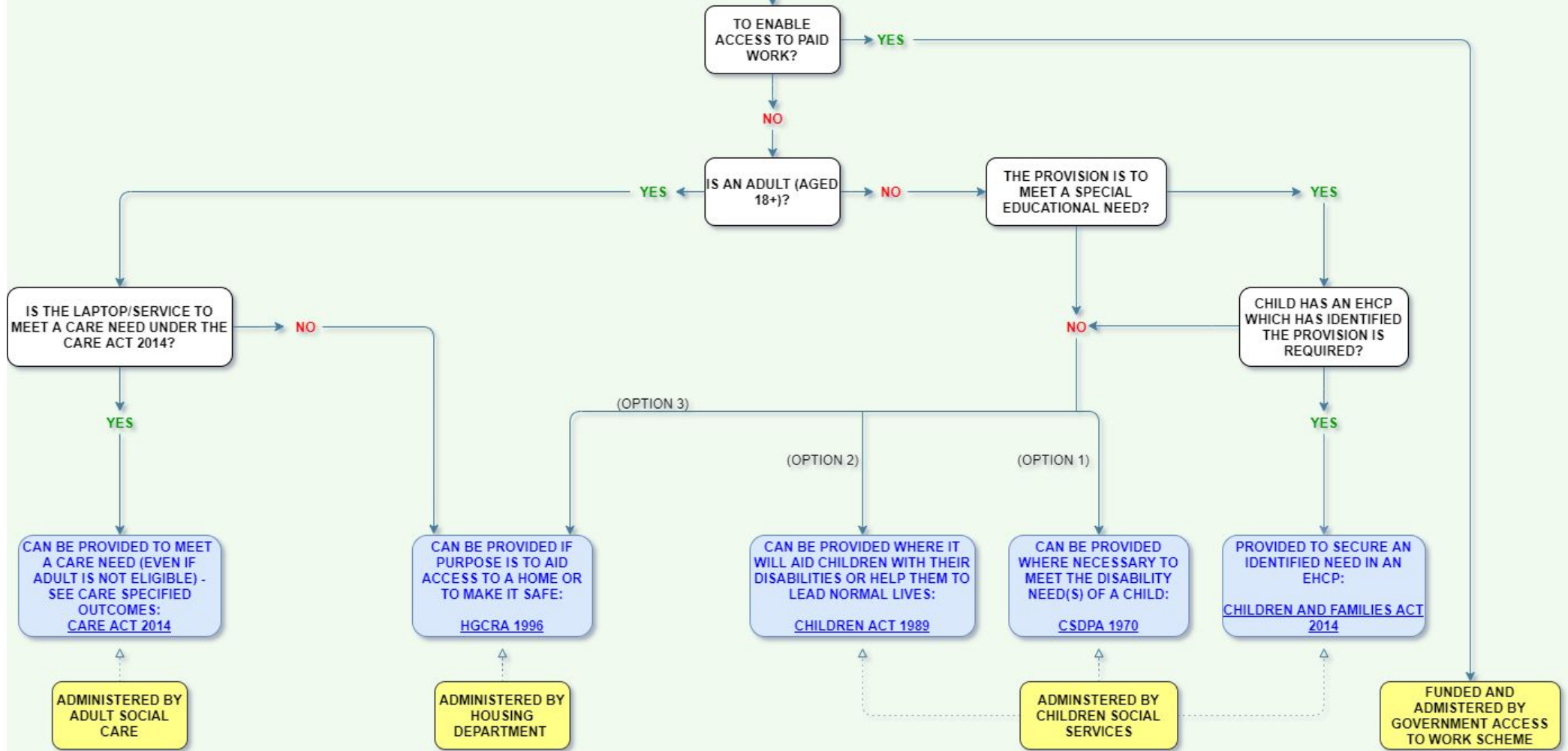
As such, where an assessment as part of or for an EHCP has identified a need for the provision, funding can be provided to secure the plan (i.e. to meet the need).

Applicable Funding Sources (Streams) For Above Powers and Duties

- Local government revenue funding (this is funding derived from the local government finance settlement, and locally raised revenue (e.g. from business rates and council tax)).⁴

⁴ House of Commons Library, Briefing Paper, Number 08543 (Children’s Social Care Services in England, 28 June 2019, at para 3.

STATUTORY DUTIES AND POWERS FOR LOCAL AUTHORITIES TO FUND A COMPUTER DEVICE AND/OR BROADBAND SERVICE FOR DISABLED PEOPLE



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ABOUT DISABILITY LAW SERVICE

Did you know that over half the people living in poverty in the UK are either disabled or living with a disabled person? It is shocking, isn't it? And given the high costs of legal advice and the reduction in legal aid, disabled people find their ability to access justice and to receive their rights and entitlements is severely limited.

That is why Disability Law Service (DLS) is here: to provide free legal advice so that disabled people and their carers can have access to justice and to ensure that they receive that to which they are entitled. We cover key areas of law that are important to our clients – as explained below.

We continue to provide a full service during the coronavirus crisis, although the team is working from home and we cannot have face to face meetings. We understand and constantly monitor the changes in law that are rapidly occurring at the moment. We are here to help so please be in touch.

Community Care

Community Care refers to the services provided by social services and the NHS to help adults, children and their carers with their care needs. This can include help at home, respite care, access to the community, travel assistance, residential care and adaptations to homes.

The law in community care is used to challenge decisions made by local authorities and NHS trusts. The common breaches of law include: removal or reductions in care packages, delays or refusals in assessments and incorrect or unfair charges for necessary services.

We have a legal aid contract for community care and can help those who are eligible, including case work and court appearances.

For those who are not eligible for legal aid we can provide a helpline advice service, although funding constraints mean that we cannot provide a casework service or representation.

If you are not sure if you are eligible for legal aid then please be in touch: we will help with this.

Employment

We can help with a range of issues – for those in work and trying to access equality of opportunity in the workplace; or for those who have left work through dismissal or resignation. We can also help with reasonable adjustments that may be needed and with claims clients may have for discrimination and harassment in the workplace.

We are able to provide helpline advice to clients wherever located and casework and representation for clients based in London if we have capacity at the time to do so.

Housing

We have a Legal Aid Contract to provide help to people with housing related matters & disputes. We can help with advice & representation in Homelessness Reviews & Appeals, Unlawful Evictions & Harassment, Possessions, Disrepair (only where there is evidence to link Disrepair to harm to health /risk of harm to health), and defending Anti-Social Behaviour Orders (ASBO's) If you are eligible for legal aid, we can provide full representation, including at court.

For those who are not eligible for legal aid we can provide a helpline advice service, although funding constraints mean that we cannot provide a casework service or representation.

If you are not sure if you are eligible for legal aid then please be in touch: we will help with this.

We will help all people who are homeless or are threatened with homelessness, regardless of whether they identify as a disabled person.

Welfare benefits

We provide advice by phone, email and in writing to individuals who have benefit enquiries about their entitlements, mandatory reconsiderations and appeals. This includes all benefits such as Employment & Support Allowance, Personal Independence Payments, Housing Benefit, Universal Credit and Attendance Allowance.

Our benefits advisor offers telephone advice only due to high demand. The helpline operates each Tuesday but you can email or leave a message at any time.

Get in Touch

We welcome enquiries by phone, email and post or via the contact forms on our website: www.dls.org.uk.

We are a busy service and you may need to leave a message if you phone. We aim to respond to all enquiries within 3-5 working days but it may take a little longer during the coronavirus outbreak.

The table below sets out how to get in touch by phone or email, depending on which area of the charity's work you are calling about.

Area	Phone: 0207 791 9800	Email address
Community Care	Please choose Option 2	advice@dls.org.uk
Employment (Greater London Area)	Please choose Option 3	employment@dls.org.uk
Employment (Other areas)	Please choose Option 4	employment@dls.org.uk
Housing	Please choose Option 6	housing@dls.org.uk
Welfare Benefits	Please choose Option 5	benefits@dls.org.uk
If you have MS	Please choose Option 1	msadvice@dls.org.uk

