



City of
BRADFORD
METROPOLITAN DISTRICT COUNCIL

TRANSITIONS PROTOCOL

**For young people moving from children's services
into adult services**



Children's Services and Adult Social Care
October 2024

This protocol is intended to detail transition processes from children's to adults' social care in Bradford. Whilst the protocol will cover the majority of cases moving between children's and adults' social care, there may be a small minority of young people which this protocol does not cover. For all young people procedures around transition will follow legislative frameworks and should be carried out in the spirit of good transition procedures as outlined in this document.

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5th Floor, Britannia House, Bradford, BD1 1HX

The wording in this publication can be made available in other formats such as large print and Braille. Please call 01274 435400.

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CHAPTER 1:

Document Control

1.1 Purpose of document

This document outlines the protocol for transition in the context of social care support and outlines the process for supporting young people from children's social care into adult social care. It is an internal document and is intended for use by professionals in education, health and social care.

1.2 Version control

This section logs the revisions, versions, approvals and distribution of this Procedure.

Version	Status	Revision Date	Summary of Changes	Author
1.1	Draft	November 2021	Initial draft for circulation	Ryan Cowley-Sharp
1.2	Revised draft	December 2021	Revised draft for circulation	Ryan Cowley-Sharp
1.3	Revised draft	December 2021	Revised draft for circulation	Ryan Cowley-Sharp / Elaine James
1.4	Revised draft	January 2022	Revised draft for circulation	Ryan Cowley-Sharp / Elaine James
1.5	Final draft	January 2022	Final draft for agreement	Ryan Cowley-Sharp / Elaine James
1.6	Final version	February 2022	Final agreed version	Ryan Cowley-Sharp / Elaine James
1.7	Revised draft	August 2023	Revision of document following annual review	Clare Reeves / Amani Ali
1.8	Revised Final Draft	February 2024	Final revised draft for circulation	Clare Reeves / Jack Skinner / Claire Smith
1.9	Revised draft following comments	July 2024	Amended draft	Clare Reeves / Jack Skinner / Elaine James
2.0	Revised version following comments	October 2024	Final revised version	Clare Reeves / Jack Skinner

1.3 Procedure Review

This protocol will be reviewed annually by involving Childrens Services' Heads of Service and Adult Social Care Heads of Service and Service Managers and be revised as appropriate. It will take into account qualitative data from service evaluations, social work case file audits and feedback from practitioners, people who experience social work and their families. The next review will take place in September 2025.

CHAPTER 2:

What is transition and who is eligible for support?

2.1 Life Transition

Transitions occur at various stages throughout a child or young person's life: from starting school, leaving primary school and starting secondary school, to preparing for independence and leaving home. Each transition can be fraught with uncertainty, fear, confusion, or embraced with enthusiasm and excitement about what happens next. These transitions coincide with physical, emotional and psychological developments that are coupled with changes to roles and relationships with family and friends, professionals and the wider community.

This protocol is concerned with transition in the context of social care support and outlines the process for supporting young people from children's social care into adult social care.

Necessary and Proportionate Support Planning

The general philosophy is for Bradford to support young people to remain connected to natural networks of support from family and community. It is only in exceptional circumstances, which is when all local options have been investigated and exhausted, that consideration would be made as to whether it is necessary and whether it is proportionate for an out of area placement to be considered to ascertain whether it is the least restrictive option. This fits with the Bradford overall strategy.

2.2 Service Transition

- 2.2.1 In Bradford, the majority of young people who are supported by Children's Social Care will transition to the Preparation for Adulthood (PfA) / Front Door Team in Bradford Adult Social Care **where they have eligible needs under the Care Act 2014**. This protocol will outline how this transition should take place so that young people and their families have appropriate support during the process.
- 2.2.2 We recognise the importance of the last few years at school and the first years of adult life in determining what will happen to young people throughout adulthood. There is a need for all agencies involved to develop robust protocols to ensure positive outcomes for all young people going through the transition process; and in particular for protocols to address the specific needs of children with additional support needs.
- 2.2.3 Central to achieving these positive outcomes is the need to ensure that young people are fully involved and participate in the planning process and are supported to have as much choice and control over their lives as possible. Those young people who go through this transition process may also have an Education and Health Care Plan (EHCP).

As set out in the SEND Code of Practice (2015), Preparing for Adulthood means preparing for:

- **higher education and/or employment** – this includes exploring different employment options, such as support for becoming self-employed and help from supported employment agencies;
- **independent living** – this means young people having choice, control and freedom over their lives and the support they have, their accommodation and living arrangements, including supported living;
- **participating in society** - including having friends and supportive relationships; and participating in, and contributing to, the local community;
- **being as healthy as possible** in adult life.

2.3 The Preparation for Adulthood (PfA) / Front Door Team

The PfA / Front Door Team will support young people with specific support needs transition into adult social care. Joint working with children's social care may begin at age 16 and a transition care act assessment to assess likely needs under the Care Act 2014 will be undertaken and completed before the young person turns 18.

A referral to the PfA Team can be made through the Adults with Disabilities Front Door Team around the time of the young person's 16th birthday*. **Consent must always be sought by the referrer and the young person should always be made aware that a referral is being made.** Once the young person is allocated a PfA / Front Door social worker the focus of the work age 16 to 18 years will be on preparation for adulthood. The children's social worker will remain the primary worker until the young person turns 18 and appropriate planning should take place to ensure a smooth handover between children's and adults' social workers. The PfA / Front Door Team will endeavour to work with the young person, their family, carers and professionals to explore existing support in order to help with the achievement of the young person's aspirations and shape the support moving forward. This can involve attending all statutory meetings relating to the young person's development, ensuring that need is defined and provision is linked back to the young person's aspirations and the shared outcomes across health and education. All decision making will be informed by the young person's wishes and feelings.

Situations may occur in certain circumstances where young people who were previously unknown to services will need support and planning: for example, due to people moving house, or as a result of a young person moving into the area. The initial referral should be made to the adult social care Independent Advice Hub (IAH) for a young person over 18 or to Children's Services Integrated Front Door if the young person is under 18. If the person meets the criteria for the PfA / Front Door Team a worker from that team will be allocated to commence an assessment.

* *Where a young person is in out of area provision or a specialist residential provision, children's social care should make this referral **as early as possible or practicable.***

2.3.1 Age 18 to 25

The PfA / Front Door Team will become the primary worker if they are already involved on the individual's 18th birthday and will carry out a Care Act assessment during this time prior to this. The PfA Team will remain involved until such time as the EHC Plan is ended (either at age 25, or when educational outcomes have been met and the individual no longer attends an education or training provider) and a social care support plan put into place. The PfA Team will remain involved until complex transition issues are resolved, and support plans formalised; the young person will then be transferred to the relevant adult social work team.

2.3.2 Mental Health Transitions

Young people who do not have a disability but do have a formal mental health condition and who are placed with Bradford District local authority area or who are registered with a Bradford GP, will transition from **Child and Adolescent Mental Health Services (CAMHS)** to an **Adult Community Mental Health Team**. These teams are managed by the community health trust provider, Bradford District Care Trust. This is an established pathway and the CAMHS Team has a dedicated Mental Health Transitions Worker to facilitate this process.

Young people who are in receipt of support from CAMHS and who have been detained under the Mental Health Act, or under Section 20 of the Children's Act, out of the Bradford Local Authority Area, but who are registered with a Bradford GP, will be referred to the **Community Mental Health Team Single Point of Access**, which is managed by the community health trust provider. A social worker from the integrated service, managed by BDCT, will be allocated to complete a Care Act assessment.

2.3.3 Vulnerable Young People in Transition

Young people without a disability who may be at risk of homelessness, substance misuse, exploitation or abuse should be discussed with the adult senior Social Worker who is allocated to support the Exploitation Hub from the Safeguarding Adults Service. Information and advice shall be provided to meet short term support needs through the Information and Advice Hub. Where there remains the possibility of eligible needs under the Care Act which require long term support, an onwards referral shall be made to the appropriate adult social work long term support service for a Care Act assessment.

Some young people may have Looked After Children status; many of these will have experienced significant childhood trauma but are unable or not willing to engage with support. For advice and guidance in these situations, a case discussion should take place to identify a pathway or signpost the young person to the relevant service. Local authority provision of continuing leaving care support must ensure that throughout the period that each care leaver is provided with leaving care services, their needs are subject to on-going assessment and review.

CHAPTER 3:

Care Act eligibility and transition criteria

3.1 Introduction

This chapter explains the criteria for eligibility for support during transition from children's to adults' services through the PfA / Front Door Team.

3.2 Eligibility Criteria

3.2.1 The PfA / Front Door Team will work with young people whose needs cannot be met by non-specialist services because, even with reasonable adjustments, their learning disability prevents this. People who are ordinarily resident in Bradford district and are assessed as having a profound, severe or moderate learning disability may be eligible for support from the team.

3.2.2 In order to be eligible under the Care Act 2014 for support from adult social care, there must be evidence of a diagnosis of a mental or physical impairment. The specific criteria for the PfA / Front Door Team also requires that there is evidence of a formal diagnosis as follows:

- Significant impairment of intellectual functioning
- Significant impairment of adaptive/social functioning
- Age of onset in early childhood.

Or

- A physical disability*

All three criteria must be met for a person to be considered to have a learning disability and meet criteria for the PfA / Front Door Team. The young person may also have an EHC plan in place.

**Physical disability does not require all 3 elements to be met.*

3.2.3 The PfA / Front Door Team will only work with young people who have a mental health condition where this is secondary to a disability. The young person must also be eligible for services with regards to the Care Act 2014. **Those young people who are not will be signposted to universal mainstream services by the Children's Services social worker who will complete a Pathway Plan** setting out the young person's destination and rights from age 18, including securing support in relation to housing and benefit entitlements.

3.2.4 Care Act eligibility

As the young person approaches 17 ½ years of age, where possible the PfA / Front Door social worker will undertake a Care Act assessment to determine eligibility for adult social care support from age 18. As required by Section 3(1) of the Care and Support (Assessment) Regulations 2014, the assessment

shall be carried out in an appropriate and proportionate manner and involve the participation of the young person. As described in Sections 2.48-2.54 of the Care and Support statutory guidance to the Care Act, in order to be consistent with a strengths-based approach, the assessment shall take into account the young person's own capabilities, potential for improvement and the role of support from friends and family.

The assessment will determine whether or not the young person meets eligibility for adult social care; section 2 of the Care and Support (Eligibility Criteria) Regulations 2015 specify that an adult's needs meet eligibility criteria if:

- The needs arise from a physical or mental impairment; and
- As a result of that impairment the adult is unable to achieve two or more outcomes which are specified within the regulations

To be considered as an eligible outcome, the assessment shall also consider whether the young person is:

- Unable to meet the outcome without assistance
- Able to achieve the outcome, but doing so would cause significant pain, distress or anxiety
- Able to achieve the outcome, but doing so would endanger their health and safety
- Able to achieve the outcome, but doing so would take significantly longer than expected.

For more information on the Care Act 2014 see here:

https://www.legislation.gov.uk/ukpga/2014/23/pdfs/ukpga_20140023_en.pdf

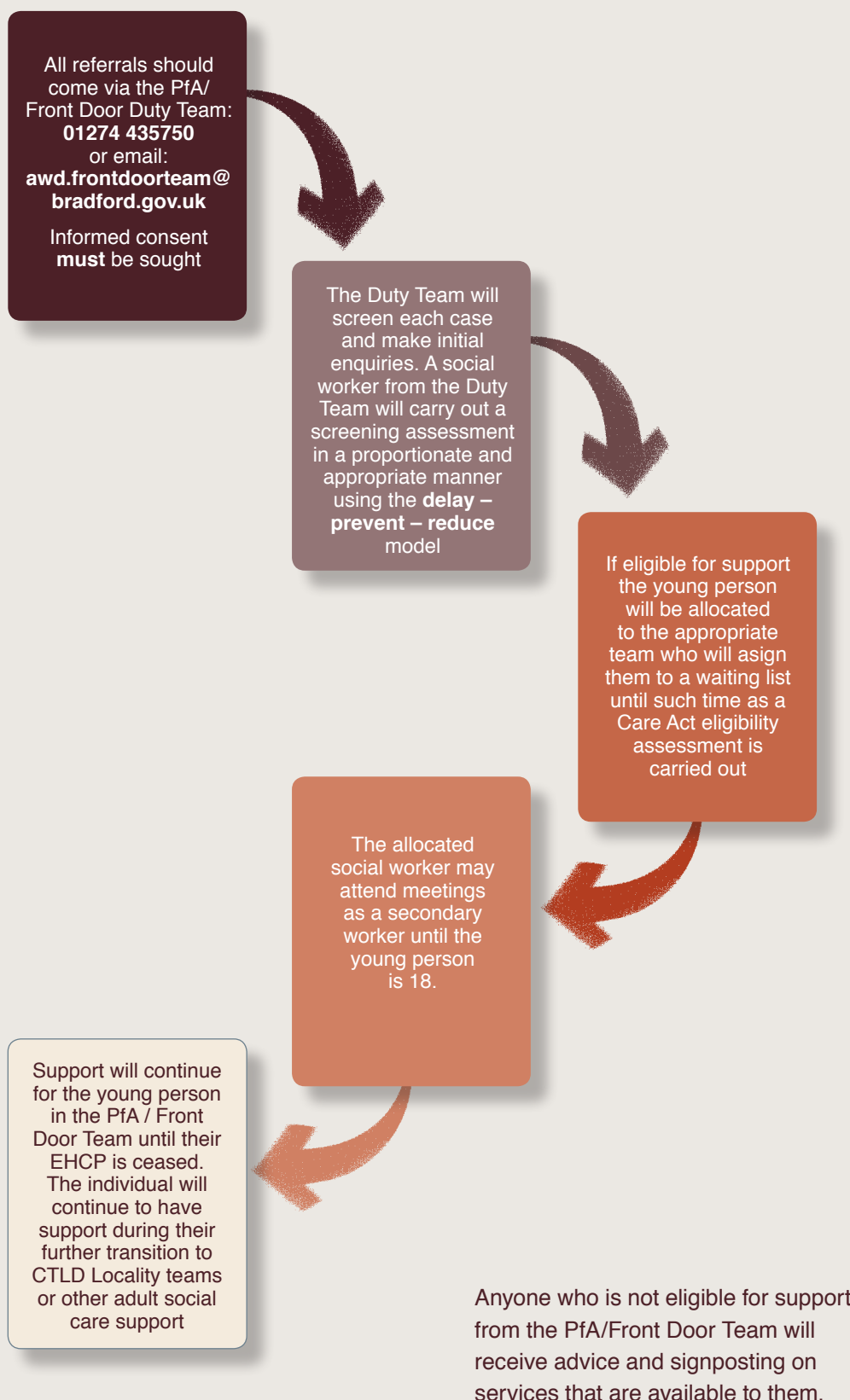
Once eligibility for adult social care has been established, and if the duty to meet need is also met, the PfA / Front Door worker will confirm the outcome from the assessment with the children's worker. The transfer of the primary children's worker on the young person's 18th birthday should be recorded on Liquid Logic (LCS) by the children's worker and the closure of involvement for Children's Service shall be noted in progress notes by the PfA / Front Door worker on the adult social care management information system (SystemOne).

As there can only be one primary worker there is no joint case management, however, adult social care may allocate a social worker as a secondary worker to co-work from 16 years. All involvement of the PfA / Front Door worker, or an adult social worker from another service, shall be recorded on the adult social care management information system (SystemOne).

In most cases where transition occurs between children's social care and adult social care, the process will fit into the diagram on the following page.

Transitions Process

The following process will account for the majority of transitions between Bradford children's and adult social care.



CHAPTER 4:

Transition responsibilities and governance

4.1 **Responsibility** for transition is shared between social care, education and health. There are different pathways for young people leaving children's social care and different arrangements which provide governance for financial, clinical and professional decisions depending on which pathway for transition is the most appropriate to meet Care Act eligible needs going forwards.

4.2. There is a transitions **governance** structure which takes the form of the following arrangements in Bradford:

- Complex Case Panel
- Adults with Disabilities Joint Quality Assurance Forum
- Mental Health Joint Funding Panel

4.2.1 The Complex Case Panel is chaired by the Assistant Director SEND and Inclusion and attended by representatives from health commissioning and the Personalised Commissioning Team, Service Managers from Children's Services and an Service Manager for Adult Services.

The purpose of the Panel is to consider all support plans for young people with a disability from age 16 who Children's Services assessment indicates may also be eligible for continuing support from adult social care post 18 in addition to continuing funding from the Special Educational Needs and Disability Service.

4.2.2 Learning Disabilities and Preparation for Adulthood Joint Quality Assurance Forum is chaired by the Head of Service/Service Manager for Adults with Disabilities and attended by representatives from the health Personalised Commissioning Team and Team Managers for Adult Social Care. The purpose of the forum is to consider all support plans for adults with a learning disability who have eligible needs under the Care Act, to quality assure support plans and consider them for approval.

4.2.3 Mental Health Joint Funding Panel is chaired by the Service Manager for Mental Health Services and attended by representatives from the health commissioning Personalised Commissioning Team and Community Mental Health Team Managers for Adult Services. The purpose of the Panel is to consider all support plans for adults with a mental health condition, who have eligible needs under the Care Act, to quality assure support plans and consider them for approval.

CHAPTER 5:

Transitional Safeguarding

- 5.1.1 The framework for how the Local Authority responds to a concern raised about a young person who is transitioning between Children's Services and Adult Social Care is informed by Bridging the Gap: Transitional Safeguarding and the Role of Social Work with Adults.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/990426/dhsc_transitional_safeguarding_report_bridging_the_gap_web.pdf

- 5.1.2 The approach taken should ensure that adolescents and young adults are able to be flexibly supported where there is a concern that they may experience harm or abuse and that because of their physical or mental impairment they are unable to keep themselves safe. The approach focuses on providing a safeguarding response to young people during adolescence into adulthood, recognising that transition is a journey not an event, and every young person will experience this journey differently.
- 5.1.3 Where a safeguarding allegation is made when the young person is aged 16-18, Children Service's staff will lead on the investigation under Section 47 of the Children Act 1989 and should coordinate protection planning within existing Child Safeguarding Procedures. The PfA / Front Door secondary worker, where allocated, will support by information sharing and advising in relation to the young person's disability and any reasonable adjustment required to enable the young person's supported involvement in decision making regarding both the outcome they want from the safeguarding inquiry and any protective measures to be planned for to maintain their safety going forwards.
- 5.1.4 Once a young person turns 18 any concern raised shall be responded to in keeping with the Joint Multi-Agency Policy and Procedures for West Yorkshire, North Yorkshire and York. These can be found here: <https://wynyy-bradford.trixonline.co.uk/>
- 5.1.5 Where a concern is raised about an adult (18+) the adult worker shall consider eligibility for a Care Act Advocate or whether an Independent Mental Capacity Advocate should be allocated through the adult service's contract with Voiceability.

APPENDIX 1

Supporting documentation

For further information on the PfA Team, including referral form and eligibility criteria see here:

Local Offer: PfA Team

<https://localoffer.bradford.gov.uk/kb5/bradford/directory/service.page?id=oGH2geSquK4&localofferchannel=0>

The co-produced PfA pathway: Co-Produced PfA Pathway

<https://www.bradford.gov.uk/adult-social-care/living-independently/preparation-for-adulthood/> (Select 'Preparation for Adult Pathway (PDF)')

Information on Shared Lives can be found here:

<https://www.careandsupport-bradford.co.uk/support-for-younger-adults/>



APPENDIX 2

Supporting legislation

The following list covers the main legislation, guidance and policies that have an impact on the transition to adulthood for young people with a disability.

Children Act (1989)

Provides the framework for social care services for children and young people. Includes the need for the views and interests of children to be taken into account.

The Act has been amended by numerous statutes.

<http://www.legislation.gov.uk/ukpga/1989/41/contents>

Children Act (2004)

Made various amendments to the Children Act 1989.

Sets the legislative foundation for the actions agreed as a result of Every Child Matters. Includes provision for the establishment of a Children's Commissioner and for each children's service authority in England to make arrangements to promote co-operation between the authority, its partners and other appropriate bodies to improve the well-being of children in the authority's area relating to areas which include physical health, emotional wellbeing and education and training.

Sets out a mechanism for establishing a database and sharing information. Brings in roles of Key worker and lead professional

States that the views and wishes of children and young people should be ascertained and given due regard in determining the provision of services to them.

<http://www.legislation.gov.uk/ukpga/2004/31/contents>

Care Act 2014

This legislation is the main legislative framework in terms of Adult Social Care. The Care Act sets out Local Authority's duties in relation to assessing people's needs and their eligibility for public funded care and support. The major elements of the Act are:

Local Authorities have a duty to promote the wellbeing of carers.

Anyone receiving care and support from a regulated provider which has been arranged by the Local Authority will be covered by the Human Rights Act 1998.

That Local Authorities must enable users or potential users of care services to access independent financial advice on their care funding.

Adult safeguarding under the Care Act was made a statutory responsibility and replaced previous policy and guidance in the form of No Secrets Guidance 2000.

<https://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>

Children and Families Act 2014

Part 3 of the Children and Families Act 2014 transforms the system for disabled children and young people and those with SEN, so that services consistently support the best outcomes for

them. The reforms create a system from birth to 25 through the development of coordinated assessment and Education, Health and Care Plans; improving cooperation between all services responsible for providing education, health or social care; and giving parents and young people greater choice and control over their support. The SEND reforms focus on the following themes:

- Working towards clearly defined outcomes
- Engagement and participation of parents and young people
- Joint Commissioning and developing a Local Offer of support
- Coordinated assessments and Education, Health and Care Plans
- Personalisation and personal budgets.

Preparation for adulthood is a key element of the reforms that cuts across all of these themes.

The Children and Families Act 2014 and the Care Act 2014, both significantly strengthened the rights for young carers..

There are nine important parts to the Act, each of which makes substantial changes and new provisions to various areas of child welfare and family law.

- Part 1. Adoption
- Part 2 Family Justice
- Part 3: Children and young people with special educational needs (SEN) and disabilities

The largest part of the Act deals with laws and provisions relating to children who have special educational needs or disabilities. It was determined that the existing system simply did not perform well enough for these particularly vulnerable groups of people, and that a new approach was required, following reports and green papers published by the Department of Education in years preceding the Act. Major changes revolved around giving families better control over the welfare of their child. New provisions put in place by the Act included the following:

1. A new Education, Health and Care (EHC) Plan based on a single assessment process will replace special education statements. EHC plans are documents that support children, young people and their families from birth to 25.
2. The commissioning and planning of services for children, young people and families is now run jointly by health services and local authorities as a result of the Act.
3. Extends the rights to a personal budget for the support to children, young people and families
4. Local services available to children and families must be made available in a clear, easy to read manner.
5. Local authorities must involve families and children in discussions and decisions relating to their care and education; and provide impartial advice, support and mediation services.

Part 3 of the Children and Families Act 2014 transforms the system for disabled children and young people and those with SEN, so that services consistently support the best outcomes for them. The reforms create a system from birth to 25 through the development of coordinated assessment and Education, Health And Care Plans; improving cooperation between all services responsible for providing education, health or social care; and giving parents and young people greater choice and control over their support. The SEND reforms focus on the following themes:

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- Coordinated assessments and Education, Health and Care Plans
- Personalisation and personal budgets.

Preparation for adulthood is a key element of the reforms that cuts across all of these themes.

- Part 4 Childcare
- Part 5 Child Welfare
- Part 6 The Children's Commissioner

The Office of the Children's Commissioner for England was set up in 2005 with the aim of championing the interests of children in the country. In the Children and Families Act 2014, the Children's Commissioner's role was increased from simply representing the views and interests of children to focusing on, and promoting and protecting the rights of children.

- Part 7.8 & 9 Working Rights to leave & Pay

For all children and young people with special educational needs and disabilities, including those with EHC plans.

- The Children and Families Act (CAFA) 2014 is statute law. It is legally binding which means that the Local Authority and schools/colleges must comply with it or else they are acting unlawfully. Part 3 of the CFA 2014 contains all the relevant sections about children and young people with SEN and disabilities.

https://www.legislation.gov.uk/ukpga/2014/6/pdfs/ukpga_20140006_en.pdf

- The Special Educational Needs and Disability Regulations 2014 are the main set of Regulations underpinning the CAFA 2014. There have been some amendments made to these Regulations which you should read alongside them. Together they provide information to support the law contained within the CAFA 2014. They are also legally binding.

<https://www.legislation.gov.uk/CAFA2014>

- The Special Educational Needs (Personal Budgets) Regulations 2014. This is a special set of Regulations dealing with personal budgets and direct payments.

<https://www.legislation.gov.uk/ukdsi/2014/9780111114056>

- The law is set out and expanded upon in SEN and Disability Code of Practice (the "Code"). This Code provides much more detail on the legal framework relating to special educational needs and disabilities. Wherever the Code says a LA or another entity should do something, this is statutory guidance. The Code is not law. If there is any difference what CAFA and the Code says the CAFA takes precedence.

<https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

Education Act 1996

The transition review process which forms the main monitoring and planning tool for most disabled young people is built on this Act and the code of practice issued under it, the SEN Code of Practice 2001.

Autism Act 2009

This legislation sets out a duty on central government to publish an autism strategy, and on local authorities and the NHS to work in collaboration with local partners to take forward the key priorities. Crucially, at its core, people with autism need to have access to a clear pathway to diagnosis and know that this pathway is aligned with care and support assessments, and that there is post-diagnostic support available even if the person does not meet social care support criteria.

Local authorities and NHS bodies should ensure the provision of an autism diagnostic pathway for adults including those who do not have a learning disability and ensuring the existence of a clear trigger from diagnostic to local authority adult services to notify individuals of their entitlement to an assessment of needs. NICE guidance and NICE Quality Standard on autism represent best practice when developing diagnostic services and related services.

Local authorities should also ensure that people with autism are aware of the right to access a needs assessment (for the adult) and a carer's assessment (for the carer). The process of obtaining one should align with the diagnostic process and be offered at the diagnosis stage and a referral made if needed.

Health and Social Care Act 2001

S57 covers direct payments and extended their use to disabled young people aged 16 and 17.

S58 added S17A to the Children Act 1989, which made provision about direct payments in respect of children. www.legislation.gov.uk/ukpga/2001/15/contents

Carers and Disabled Children Act 2000

The Act requires local authorities who receive a request for a carer's assessment to assess the carer's needs and provide services which they think are appropriate and will support the carer to continue in their caring role. The services provided may be physical help or other forms of support. No such provision was made in relation to children's services because local authorities can provide services to the family under section 17A of the Children Act 1989. There is some overlap between the Carers (Recognition and Services) Act 1995 and the 2000 Act.

(1) The local authority must consider the assessment and decide — (a) whether the carer has needs in relation to the care which he provides or intends to provide; (b) if so, whether they could be satisfied (wholly or partly) by services which the local authority may provide; and (c) if they could be so satisfied, whether or not to provide services to the carer.

(2) The services referred to are any services which — (a) the local authority sees fit to provide; and (b) will in the local authority's view help the carer care for the person cared for, and may take the form of physical help or other forms of support.

(3) A service, although provided to the carer — (a) may take the form of a service delivered to the person cared for if it is one which, if provided to him instead of to the carer, could fall within community care services and they both agree it is to be so delivered; but (b) if a service is delivered to the person cared for it may not, except in prescribed circumstances, include anything of an intimate nature.

http://www.legislation.gov.uk/ukpga/2000/16/pdfs/ukpga_20000016_en.pdf

UN Convention on the Rights of the Child (1989)

The UNCRC is an international treaty, which was ratified in the UK in 1991. Articles 12 and 13 of the Convention enshrine the right of all children to express their views and for these to be taken into account in decisions that affect them. Further to this, Article 23 focuses specifically on disabled children and young people, recognising their right to dignity, independence and participation within their community.

<https://www.gov.uk/government/publications/united-nations-convention-on-the-rights-of-the-child-uncrc-how-legislation-underpins-implementation-in-england>

UN Convention on the Rights of Persons with Disabilities (2006)

Embodies the rights of disabled people to equal participation in public, political (Article 29), cultural life (Article 30) and within their community (Article 19). The convention also states that disabled children and young people should have access to the same rights and freedoms as all children and young people, with particular reference to ensuring they have the right to express their views on all issues which affect them and to be provided with the appropriate support to enable them to do so (Article 7). This is supported by Article 21 which states that to enable disabled people to exercise their right to freedom of expression, states parties should take steps to ensure that they are able to receive and impart information using a range of formats, including assistive and augmentative communication, and that information provided to the general public should be made available to disabled people in a range of accessible formats.

www.un.org/development/desa/disabilities

Children (Leaving Care) Act 2000

The Act amends the previous provision for care leavers set out in the Children Act 1989 and is designed to improve the life chances of young people living in and leaving local authority care. Provides an entitlement to an assessment and a Pathway Plan and a personal adviser for each looked after and former looked after young person to improve the:

- preparation and planning for leaving care
- financial arrangements for care leavers
- and to ensure that young people continue to receive the support they need to make an effective transition to adult life.

<http://www.legislation.gov.uk/ukpga/2000/35/notes/division/2>

Equality Act 2010

This act provides a legal framework to protect the rights of individuals and advance equality of opportunity for all. It provides Britain with a discrimination law which protects individuals from unfair treatments and promotes a fair and more equal society.

Mental Capacity Act (2005)

The Mental Capacity Act (MCA) 2005 is legislation that applies to young people (aged 16 and 17) as well as people aged over 18. Once a child reaches 16, they are assumed to have the legal capacity to make their own decisions and the concept of Gillick competence invariably no longer applies.

The MCA 2005 is used to both support people to make their own decisions and to provide a framework for how to make decisions in their best interests when they are unable to make these decisions themselves (lacking capacity). Everyone working with a person aged 16 or over must comply with the Act.

The scope of the MCA is far reaching and covers decisions related to the care, welfare and treatment of young people. This can include small day to day decisions such as what to wear and what to eat, to more significant decisions about where to live and how to be provided with care or treatment.

The Act contains 5 key principles which inform the approach to take when working with young people:

1. A person aged 16 or over is assumed to have the ability to make their own decisions until it is established otherwise, by applying the test of capacity and having evidence that shows the person can't make the decision on the balance of probabilities. A lack of capacity for the purpose of the MCA 2005 must be attributable to an impairment of, or a disturbance in the functioning of the mind or brain (temporary or permanent).
2. A person must be provided with all practicable support to make the decision before they can be determined to lack capacity. For example, providing them with the relevant information for a decision in a way that supports their grasp of this, using additional communication mediums, seeing them on more than one occasion.
3. A person can't be said to lack capacity solely because the decision they make appears to be unwise.
4. Acts done on behalf of someone who lacks capacity must be in their best interests. When considering best interests it is important to check the person's previously expressed wishes, feelings, beliefs and to consult with interested others e.g. family, friends, carers, professionals. Section 4 of the MCA 2005 contains a checklist of requirements when making a best interests decision.
5. Before an act is done or a decision is made for a person who lacks capacity, it must be considered whether it can be achieved in a way that is less restrictive of the person's rights or freedoms of action.

Just because a person may have a particular diagnosis or be a certain age doesn't mean a mental capacity assessment is required. The MCA 2005 Code of Practice identifies that there needs to be valid reason to doubt a person's ability to make a specific decision for a capacity assessment to take place. There may be various reasons for this:

- the person's behavior or circumstances cause doubt as to whether they have the capacity to make a decision;
- somebody else says they are concerned about the person's capacity; or
- the person has previously been diagnosed with an impairment or disturbance that affects the way their mind or brain works [...] and it has already been shown they lack capacity to make other decisions in their life.

(MCA 2005 Code of Practice p52).

Where it has been recognized that a specific decision needs to be made, and there is valid reason to doubt a young person's ability to make that decision, a mental capacity assessment entails the following steps, which are carried out in this order:

1. Can the person make the specific decision? (can they understand, retain, use and weigh up the relevant information to communicate their decision)?

If the person can understand, retain and use and weigh up the relevant information to communicate the decision, then the presumption that they have capacity to make the decision remains. If they are unable to do any one of understand, retain, use and weigh up the relevant information to communicate a decision steps 2 and 3 below are then followed:
2. What is the impairment or disturbance in the functioning of the mind or brain (a formal diagnosis isn't necessarily needed)?
3. How does the impairment mean they are unable to make the decision (the causal nexus)?

If a young person has the mental capacity to make a decision, their choice should be respected in almost all situations, although legal advice should be sought in relation to a young person's capacious refusal of certain decisions where it is felt further action is necessary and proportionate to prevent harm.

If the young person lacks capacity to make a decision, individuals with parental responsibility (PR) should be consulted as part of the best interests process under the MCA 2005. In other instances, it may be possible to rely on the consent of those with PR to make the decision for the young person as opposed to using the best interests framework of the MCA 2005. However, consideration needs to be given to:

- a. what route you are using and why? (E.g. does consent from the person with PR offer greater safeguards for decision-making for the young person than the best interests approach under the MCA 2005?); and crucially
- b. Is the decision one which the person with PR can actually consent to?

In coming to an answer in respect of these questions, professionals need to consider a range of factors to ascertain whether the decision falls within the scope of parental responsibility:

1. Is this a decision that a parent should reasonably be expected to make? Significant factors determining this are likely to include: the type and invasiveness of the proposed intervention; the age and maturity of the young person; the extent to which the decision accords with the wishes of the young person or whether the young person is resisting the decision.
2. Are there any factors which might undermine the validity of parental consent? eg where the parent may lack capacity because of his/her own impairments; where parents disagree about what is best for their child and what action should be taken; where the parent is not able to focus on what course of action is in their child's best interests

Invariably, use of the MCA 2005 is preferable to a reliance on the consent of someone with PR. Legal advice should be sought where there is doubt whether parental consent can be relied on to take a particular course of action for the young person lacking capacity. It is important to point out, however, that a person with PR can never consent to a deprivation of liberty for a young person.

A deprivation of liberty will likely occur when the young person:

- Is subject to continuous supervision and control and are not free to leave; and
- there is no valid consent to the arrangements confining them (either due to them lacking capacity to consent or their capacious refusal to give consent); and
- the state (someone from the Local Authority or health, for example) are aware of the arrangements giving rise to a deprivation of liberty.

An appropriate legal framework will always be needed where there is no option but to deprive a young person of their liberty, once all efforts to avoid this have been explored. Some examples of the legal frameworks that are used to provide this legislative scrutiny and authority in health and welfare contexts are:

- A welfare order granted by the Court of Protection using the powers of the MCA 2005. Used where the young person lacks capacity to consent to the arrangements depriving them of their liberty at home, in the community, in a care home or hospital where the below provisions are not available/appropriate.
- The Mental Health Act 1983. Can be used to authorise a deprivation of liberty for care and treatment for a mental disorder where criteria for admission to hospital are met.

- Section 25 of the Children Act 1989. Can be used to lawfully deprive a young person of their liberty where they are a looked after child and need to be placed in a secure children's home.
- The Inherent Jurisdiction of the High Court can be used in cases where the young person meets the Children Act 1989 section 25 criteria, but no registered secure accommodation is available and they have the capacity to consent to the arrangements (but refuse to give consent).

Legal advice should always be sought where circumstances unavoidably give rise to a deprivation of liberty for a young person and there is uncertainty over the correct legal framework to use.

Please see the attachment for links and further resources on the MCA 2005, including deprivations of liberty.

More information on the MCA and young people can be found here:
<https://www.careengland.org.uk/how-does-the-mca-apply-to-young-people-who-might-lack-mental-capacity/>

Mental Health Act 1983

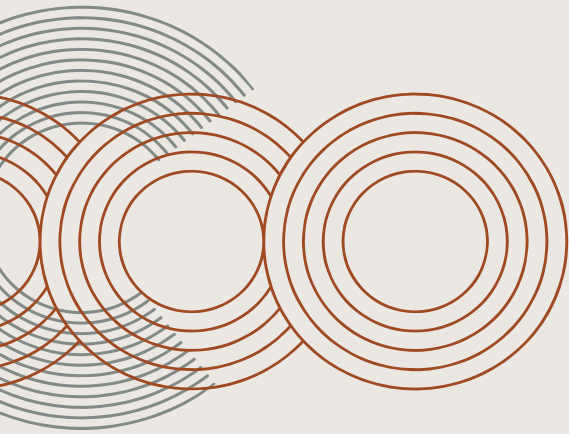
This legislation is the main piece of statute that covers the assessment, treatment and rights of people (including young people) with a mental health condition. This Act covers compulsory admission, rights of appeal, the powers and role of the Nearest Relative and consent to treatment. The use of the Act is reviewed and regulated by the Care Quality Commission.



APPENDIX 3

List of transition assessments required for preparing for adulthood

Assessment	Summary	Age of young person
Children and Young People Assessments		
Children and Families Assessment	All children with a disability are entitled to an assessment under Section 17 of the Children Act 1989 (this is commonly known as a Children and Families Assessment).	Valid until 18th birthday
Early Help Plans	This is when social work intervention is not required, however a nominated lead professional is identified to coordinate small packages of social care support.	Valid until 18th birthday
Pathway Plans	This is a multi-agency assessment required under the Children Leaving Care Act 2000, completed when the young person is age 15-16.	PA entitlement valid until 21st birthday
Adult/Transitions Assessments		
Care Act: Let's Connect Assessment	The adult assessment completed under the Care Act 2014.	
Mental Capacity Act 2005	Assessments completed on significant life decisions: <ul style="list-style-type: none"> ● Finance ● Residence ● Care and Treatment ● Sexual Relations ● Regulating Contact 	Decision-specific assessments start at age 16 (both Children's and Adults Social Workers to complete)
Adult Risk Assessment	Written in conjunction with MCA assessments as part of risk enablement post-18.	
Financial and Benefits (FAB) Assessment	To look at the financial contribution to care and support post-18.	
Adult Care and Support Plan	Funding approval sought from relevant Adult Service Delivery Manager prior to 18th birthday.	
Education Health and Care Plan (EHC plan)	A legal document setting out the Education, Health and Care needs and provision of the young person.	Valid until age 25 or until educational outcomes have been achieved
Health		
Continuing Health Care Assessment	Checklist eligibility leads to decision making tool.	



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6 FEBRUARY 2025

