

EXPLANATORY MEMORANDUM TO
THE BREAKS FOR CARERS OF DISABLED CHILDREN REGULATIONS
2010

2010 No. [XXXX]

1. This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of the Breaks for Carers of Disabled Children Regulations 2010 (“the 2010 Regulations”) is to prescribe how local authorities should carry out their duty to provide a short breaks service to carers of disabled children. The 2010 Regulations prescribe the matters to which local authorities must have regard when performing their duty, the range of breaks which must form part of an overall service, and the way in which local parents must be informed of that service.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Paragraph 6(1)(c) of Schedule 2 to the Children Act 1989 (inserted by section 25 of the Children and Young Persons Act 2008), requires local authorities to provide services to assist individuals who provide care for disabled children to continue to do so, or to do so more effectively, by giving them breaks from caring.

4.2 Paragraph 6(2) requires local authorities to perform this duty in accordance with regulations made under that paragraph. The 2010 Regulations, therefore, are the first regulations to be made exercising the power conferred by paragraph 6(2) of Schedule 2 to the Children Act 1989 and prescribe the manner in which local authorities must perform their duty at paragraph 6(1)(c).

5. Territorial Extent and Application

5.1 This instrument applies to all of England.

6. European Convention on Human Rights

Sarah Teather MP has made the following statement regarding Human Rights:

In my view the provisions of the Breaks for Carers of Disabled Children

Regulations 2010 are compatible with the Convention rights.

7. Policy background

7.1 The policy objective underpinning the 2010 Regulations is to ensure that local authorities recognise the provision of short breaks services as an essential service to be offered to carers of disabled children. It follows a significant three year investment to build short break services, which itself followed a number of parliamentary debates in 2007 highlighting short breaks as being a key element of the support provided by a local authority to people who care for disabled children.

7.2 The 2010 Regulations, therefore, prescribe that, in exercising their duty under paragraph 6(1)(c) of Schedule 2 to the Children Act 1989, local authorities must have regard to the needs of different types of carers in the area. They provide also that a range of types of break should be offered by local authorities and when they should be provided, and prescribe how carers should be informed of their local service by the local authority.

7.3 The intention of regulation 3 is to ensure that breaks are not just offered as an emergency intervention, but as part of the general support provided by a local authority that should be available to eligible families with caring responsibilities for a disabled child, so that they are able to continue to provide care or to manage their responsibilities effectively.

7.4 Regulation 4 sets out the range of breaks that should be offered and when such breaks should be available. The intention of regulation 4 is that carers should be able to access breaks which are appropriate and convenient for their individual circumstances. The independent evaluation of short breaks services has shown that inflexible breaks, which are offered at times which are not helpful to a family, or at an inconvenient location, provide no real respite for carers.

7.5 Regulation 5 requires local authorities to publish information, for carers to access, about the range of services offered in their locality, and the local authority's eligibility criteria for accessing them. This regulation is central to ensuring that there is transparency in local areas about the breaks that are available, and the way in which they can be accessed. The transparency of information to carers is designed to ensure that in areas where an appropriate range of breaks was not being offered, carers would have access to enough information to be able to challenge the local authority appropriately.

7.6 Regulation 5 has been amended since the draft which was consulted on, as a necessary consequence of changes to other legislation. It was originally intended that the 2010 Regulations would require local authorities to publish a sufficiency assessment of short breaks services and that sufficiency assessment would have formed part of a wider Children and Young People's Plan. However, the Children's Trust Board (Children and Young People's Plan) (England) Regulations 2010, which required the Children's Trust Board

to prepare and publish a Children and Young People's Plan, are due to be revoked with effect from 31st October 2010 (subject to parliamentary agreement).

7.7 The purpose of publishing an assessment of short breaks sufficiency was to ensure that services were matched to the needs of local parents. In order to maintain the link between parents' needs and the provision of services locally, regulation 5 will now require local authorities to publish information for parents about the services available and any eligibility criteria which apply. The statement would ensure that parents are able to challenge local authorities which are not providing an appropriate range of short breaks, or which are illegally limiting access to them. At the same time, local authorities would not be subject to the same level of prescription about how they designed a service and the information published in line with the Government's agenda to reduce bureaucracy.

7.8 It is estimated that there are about 700,000 disabled children in England, of which about 150,000 currently access a short breaks service. The 2010 Regulations do not provide carers with an entitlement to a service, but are intended to ensure that those who are most in need are able to access the support they need. Local authorities will still have the flexibility to provide a service which reflects the funding available to them.

7.9 There has been significant investment in services since 2007 as part of a Government programme to improve disabled children's services. That investment had been supported by ring-fenced funding, and by an independent 'field force' – an organisation which provides day to day support to service managers in local authorities to help them improve their delivery of breaks. The field force will no longer be in place from April 2011 when the 2010 Regulations come into force. It is the services that have grown as a result of investment which the 2010 Regulations seek to maintain.

7.10 There is an active lobby for disabled children and their families and a high level of public interest in this matter. There was a very positive response to the amendment to paragraph 6 of Schedule 2 to the Children Act 1989 during the passage of the Children and Young Persons Bill, and there has been a positive response to the consultation of the 2010 Regulations in that respondents were content with the draft regulations.

8. Consultation outcome

8.1 A draft of the 2010 Regulations and draft statutory guidance were consulted on under the previous Government for 12 weeks between January and March 2010. Local authorities, sector specific voluntary organisations and parents of disabled children were encouraged to respond, and the Department ran four consultation events – three for local authorities and a fourth for parents of disabled children.

8.2 58 responses to the consultation were received: 27 of those were from local authorities, 16 from voluntary sector organisations and 9 from parents

and carers of disabled children.

8.3 Most of the responses to the consultation questions were positive, 51% respondents agreeing with the type and range of services set out and the way in which local authorities should identify local demand for short breaks in order to design the service, and for publication of information the Children and Young People's Plan. A number of respondents also expressed their desire to see a greater role for PCTs in the design and delivery of short breaks services.

8.4 A number of responses were given in relation to the detail of statutory guidance. Since the consultation, it has been agreed that the Department will issue practice guidance rather than statutory guidance. Practice guidance will include the main points on the draft statutory guidance, but will have a greater focus on practical examples. The guidance's non-statutory status would enable it to be updated more easily to include emerging new good practice. In particular, we would be able to update guidance to reflect the new context provided by the forthcoming Green Paper on children with special educational needs and disabilities. It was also felt that issuing further statutory guidance was too prescriptive given this Government's intent to increase local autonomy, and reduce the bureaucratic burden.

8.5 Since consultation, the regulatory requirements have also been amended. 51% of respondents agreed with the requirement to assess short breaks services as part of the Children and Young People's Plan process. Following the revocation (subject to parliamentary agreement) of the Children's Trust Board (Children and Young People's Plan) (England) Regulations 2010, and the desire to reduce bureaucracy, the requirement to assess services has been replaced in the final draft of the 2010 Regulations and replaced with the requirement to publish a statement to carers about services available.

9. Guidance

8.6 The guidance which will now accompany these Regulations will be non-statutory practice guidance which will be issued as soon as possible and which will give local authorities practical guidance about how to deliver a high quality service which meets the needs of carers. The guidance can be updated easily, in order to keep the practice recorded fresh and relevant and so as to incorporate any new messages which come from the Green Paper which could further contextualise the delivery of short breaks services.

10. Impact

10.1 The impact on business, charities or voluntary bodies is broadly positive. The voluntary sector currently delivers about 40% of short breaks services; this instrument will not require local authorities to change their commissioning practice.

10.2 The impact on the public sector is limited. Local authorities have been

building up services over the last three years, and will be in a position now to meet the obligations set out in the 2010 Regulations. The intention is that local authorities should maintain the current level of service.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on the OPSI website.

11. Regulating small business

11.1 The 2010 Regulations do not apply to small business.

12. Monitoring & review

12.1 The National Development Team for Inclusion (NDTi) have conducted a baseline study about the impact of short breaks services. The team will review the impact of short breaks services after 2 years, and report its findings in summer 2011.

13. Contact

Jocelyn Shaw at the Department for Education. Tel: 0207 783 8799 or email: Jocelyn.shaw@education.gsi.gov.uk can answer any queries regarding the instrument.

Title: Impact Assessment of Breaks for Carers of Disabled Children (England) Regulations 2011 NOW KNOWN AS The Breaks for Carers of Disabled Children Regulations 2010 Lead department or agency: Department for Education Other departments or agencies:	Impact Assessment (IA)
	IA No: DFE0006
	Date: 01/01/2010
	Stage: Final
	Source of intervention: Domestic
	Type of measure: Primary legislation
Contact for enquiries: Jocelyn Shaw 0207 7838799	

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

The current ring-fencing for short breaks for carers of disabled children will be ending in 2011, as will the support of a national field force. The programme is now being embedded into the usual programme of local authority activity. The programme has so far had success in providing respite for carers of disabled children. To ensure the continued successes of this programme, government intervention is necessary to establish short breaks as a priority in local authorities and sustaining the availability of services for the most vulnerable in society.

What are the policy objectives and the intended effects?

(1) To maintain short breaks services beyond the life of the AHDC programme (2) To ensure a range of short breaks is available to families with disabled children in every area- equal to the 'full service offer'. The range provided must be able to meet the needs of different families. (3) To ensure that parents and primary carers are aware of their local short breaks service, and the criteria for accessing it.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

1. Maintain ring fenced funding and field force to ensure LAs continue to prioritise short breaks services. This option goes against the grain of current wider policies to end fieldforces and ring fenced funding. We consider that where LAs identified and funded their own delivery support, only high performing LAs would continue to improve, leaving a mixed picture of services for families in need. 2. As option 1 has been ruled out by wider policy developments, we have explored how priority could be maintained without a field force or ring fence. It is likely that this option would rely heavily on service users (parents of disabled children) to lobby local areas for services. The evidence from the programme so far, which has funded parent forums in every area to work with LAs to improve services, suggests that parents groups are not effective in every area, and only some LAs use parents forums. This would mean, as with option 1, that services would be patchy. 3. (preferred option) Bring regulations into force which ensure a range of breaks is provided, and which supports parents' engagement

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	It will be reviewed 01/2010
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

SELECT SIGNATORY Sign-off For final proposal stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible SELECT SIGNATORY: *Sarah Teather* Date: 11/11/10

Summary: Analysis and Evidence

Policy Option 3

Description:

Price Base Year 2009	PV Base Year	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -0.027	High: -0.04	Best Estimate: -0.17

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0.008	180	£1,730

Description and scale of key monetised costs by 'main affected groups'

The costs of short break provision incurred by local authorities are mostly the costs associated with recruitment and training of carers. One-off costs are the cost of drafting and approving regulations. Total cost is calculated for 10 years. Estimates for the number of disabled children vary depending on the definition of disability used. Research evidence indicates that 5 to 7 percent of children have a disability.

Other key non-monetised costs by 'main affected groups'

Time taken by LA staff to read and understand new regulations.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low		£118	£1,013
High		£171	£1,419
Best Estimate		£144	£1,198

Description and scale of key monetised benefits by 'main affected groups'

Benefits are quantified as costs prevented by short break provision e.g. costs to the family from parents not being in work, costs to health services and employers from parents' stress, etc. A conservative and high-end estimate is presented. Total benefit is over 10 years.

Other key non-monetised benefits by 'main affected groups'

Parental levels of happiness and life satisfaction will be higher. Improvement of wellbeing of disabled children as new kinds of short breaks will enable them to have new experiences and build social networks. Over time, public services will save some costs of large scale interventions as there are less family breakdowns.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

As short breaks are always tailored to different families' needs, it is difficult to provide an estimate of cost that could cover the whole range of different kinds of short breaks. The actual cost to LAs will vary according to local context and the estimate given above cannot apply to all cases.

Impact on admin burden (AB) (£m):		Impact on policy cost savings (£m):		In scope Yes/No
New AB:	AB savings:	Policy cost savings:	Net:	

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?		England			
From what date will the policy be implemented?		01/04/2010			
Which organisation(s) will enforce the policy?					
What is the annual change in enforcement cost (£m)?					
Does enforcement comply with Hampton principles?		Yes			
Does implementation go beyond minimum EU requirements?		No			
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded:		Non-traded:	
Does the proposal have an impact on competition?		Yes/No			
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?		Costs:		Benefits:	
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties ¹ Statutory Equality Duties Impact Test guidance	No	
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	
Small firms Small Firms Impact Test guidance	No	
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	No	
Justice system Justice Impact Test guidance	No	
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

¹ Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
1	Impact Assessment- consultation version
2	
3	
4	

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs	0.008									
Annual recurring cost		180	180	180	180	180	180	180	180	180
Total annual costs	0.008	180	180	180	180	180	180	180	180	180
Transition benefits										
Annual recurring benefits		144	144	144	144	144	144	144	144	144
Total annual benefits		144	144	144	144	144	144	144	144	144

* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office
Excel Worksheet

Evidence Base (for summary sheets)

BACKGROUND

The regulations which impose a duty of local authorities to provide a range of short breaks services to carers of disabled children come at the end of an intensive three year investment and support programme to improve those services under the banner of the Aiming High for Disabled Children Programme (2008-11). Improvements to short breaks services were supported by a national field force, managed by Together for Disabled Children (TDC), a partnership between Serco and the parents' charity Contact a Family. Local authorities have received a high level of support to commission services, manage budgets, and to bring about step changes to the amount and quality of short breaks available, and they have been working towards the expectation that this duty will come into force from April 2011. By April 2010, an additional 47,000 children had received a short break, and over 100,000 children were benefitting from services altogether.

During the parliamentary hearings which preceded the introduction of the 'Aiming High for Disabled Children Programme', a number of families told MPs and Ministers that the provision of more respite care would be the single most important thing that could improve their lives, and this was the evidence base for the short breaks programme of funding.

Section 17(1) of the Children Act 1989 provided a legal basis for LAs to provide short breaks in relation to their duty to safeguard and promote the welfare of children within their area who are 'in need' (including disabled children) by providing a range of level of services appropriate to those children's needs – and whilst short break provision clearly contributes to meeting that general duty, the 1989 Act does not impose a specific duty to secure short break provision.

The regulations being introduced now follow an amendment to the Children Act (1989), which was put forward as part of the Children and Young Person's Act (2008). The amendment introduced at Section 25 of the Children Act (1989) a new statutory duty on LAs to assist individuals who provide care for disabled children to continue to do so, or to do so more effectively, by giving them breaks from caring.

The coalition government has committed to improving access to respite services, and to providing additional short breaks for carers of severely disabled children. This summer (2010) the Minister for Children announced her intention to publish a Green Paper on children with special educational needs and disabilities. The Green Paper will explore ways of further improving the support for parents of children with additional needs and provide further context for these regulations.

Response to Consultation

The 12 week public consultation on draft regulations ended in March 2010. 58 formal responses were received. 27% of respondents were from local authorities, 16% from the voluntary sector and 10 from parents and carers. The response to consultation was generally positive, and the main issues of contention arose around the draft guidance, which will now become non-statutory in response to the Government's commitment to reducing burdens on local authorities. Local authorities and parents were all clear that the range of breaks and circumstances when a break should be offered were fair, although there was a request to place additional focus on the needs of siblings. A significant number of respondents also commented on the need to improve partnership working between PCTs and Local Authorities in delivery of short breaks services. The removal of the Children and Young People's Plan regulations means that there is little scope to further partnership working with these regulations, and indeed the significant changes to the health service suggested in the Department of Health White Paper (2010) will mean that these arrangements should be reviewed at a future date.

DUTIES IMPOSED ON LAs BY DRAFT REGULATIONS

The 'Break for Carers of Disabled Children (England) Regulations 2011' seek to require LAs to:

1. Provide short breaks to those who care for disabled children when it would improve their ability to care for their disabled child, or when they could not continue to provide care without a short break;
2. Provide a range of breaks including day time and overnight breaks in the home of disabled child or educational/recreational activities outside their homes, and breaks in evenings, weekends and holidays;
3. Publish information to parents about the service available in their area and criteria for accessing it.

Point 3 here is a change to the draft regulations that formed part of the consultation exercise from January to March 2010. In the draft regulations, local authorities were expected to assess the need for short breaks in their area and to publish that assessment as part of the Children and Young People's Plan each year. The DfE has announced its intention to repeal the regulations which relate to Children and Young People's Plan, and as a result these regulations have been revised to reflect that change.

RATIONALE

Severely disabled children and young people often have extensive or constant care needs, placing enormous pressures on their parents, and other family members. The resulting stress placed on families can often result in illness, depression, and contribute to family breakdown with the likelihood of children being taken into care.

According to the 2004 survey, a short break from their caring responsibilities is the single biggest factor in helping parents, and other family members, be able to cope, to continue to care for their disabled child/young person, and to maintain their own relationships. Short breaks can also benefit and improve the quality of life of the disabled child/young person themselves. However, despite the importance attached to such provision by parents, many eligible children were unable to access short breaks through a lack of suitable provision. Others reported that they did not receive packages of support they considered adequate or timely and the choice of provision available was limited.

The evidence also suggests that unmet need in short breaks provision is greatest for particular groups of children. These groups include children with complex health needs, children requiring moving and handling, children with challenging behaviour or autistic spectrum disorders and children from minority ethnic families:

- Research by Beresford (1995) and Chambrá et al (1999) found a substantial gap between the need for services and the use of short break services amongst BME families.
- The national short break surveys also collected detailed data on unmet need and found that BME families were more likely to be waiting for services. For example, in the third national survey, Prewett (1999) found that the main reason for children waiting for a service was due to a general shortage of carers, and in particular carers from BME groups.
- The fourth national survey, Carlin and Cramer (2007), did not ask for detailed information on children waiting for services making it difficult to directly compare with previous surveys. It did, however, ask for profiles of children most likely to be waiting and a child's ethnicity came very low on the list of profiles (7 schemes mentioned ethnicity) after autism (62 schemes) and 'challenging behaviour' (50 schemes). This seems to suggest the unmet needs of BME children were not currently viewed by schemes as being obvious and urgent issues. That same survey also found that children and young people with autistic spectrum disorder or challenging behaviour were most likely to be on waiting lists for family-based short break services, with autistic teenage boys being the group likely to wait the longest.

More recent evidence from the field force which has supported short breaks delivery, Together for Disabled Children, suggests that 47,000 more children received a short break in 2009/10, compared to 2007/08 and in total 105,000 children received a short break in 2009/10. The figures also suggest that services are increasing most rapidly for children with severe moving and handling needs and those with challenging behaviour, suggesting that the programme is having a positive effect. The danger remains that when the current funding arrangements comes to an end the progress achieved so far by individual LAs may stall or even reverse unless the Government acts to reinforce the duty of LAs to continue to firmly embed short breaks as part of their core local offer to families of disabled children/young people. Given the evidence available, the most effective way to assist individuals who provide care for disabled children is to place a statutory duty on LAs, with non-statutory guidance, to offer them breaks from caring.

OPTIONS

Option 1: Maintain Status Quo

Costs	Benefits
<p>Revenue costs- grant funded to LAs £180m/yr</p> <p>This figure is based on the 2011 allocation of revenue funding for short breaks- and represents a maximum possible value</p>	<p>Annual cost of service provision- usually contracted out. Contract ensures range of provision suitable for needs of family in area</p>
<p>Optional continued Capital Funding £52m/yr</p> <p>This figure is based on the 2011 allocation of capital funding and represents a maximum possible value</p>	<p>Current spend has been on holiday homes, building extensions, accessibility to particular activities</p>
<p>£5m/yr field force support, including support for LAs and for parent forums</p>	<p>Provides on going support to LAs, as well as monitoring of delivery and spend</p>

This option assumes that we will be able to continue with the current arrangements of ring-fenced funding and field forces. There are risks associated with this assumption for the following reasons:

(a) Ring fenced funding goes against the current policy intention to allow greater control over spending at local level, and the stated desire to increase localised decision making in terms of funding priorities. It is unlikely that the ring fence which has protected the investment in short breaks since 2008 will remain after 2011. The removal of the ring fence could potentially lead to a re-prioritisation of funding at local level away from services for disabled children.

(b) The Department is moving away from field force support and towards self-identified 'draw down' support for LAs. This would mean that at the same time as potential loss of the ring fence, there would be less chance to monitor progress. The impact will be felt most in LAs which are not delivering well, and who are more likely a) not to prioritise services for disabled children and their families and/or b) who are unable to self- evaluate well enough to identify appropriate support to improve delivery.

These two points combined would mean that there would be no clear definition of acceptable service delivery, and no ways of ensuring local authorities deliver a service. The assumptions this option is based on are therefore deemed to be too high risk for it to be acceptable.

Note: It is likely that current policies would mean that option 1 and 2 would have the same outcome.

Option 2: No regulations, ring fence or field force support

In option 2, we have explored what levers would be available to continue to maintain short breaks services when the field force and ring fence come to an end. It is worth noting here that the Department has also reduced the use of targets to drive LA performance, and we have now ended the annual survey which measured parents' satisfaction of services for disabled children.

Option 2 really describes the position for short breaks services before the AHDC programme began in 2008. We know that before 2008, short breaks services were at a much lower level, and that there was not the range of services which has built up over the 2008-2011 funding period. Additionally, the short breaks programme has changed the pattern of services being delivered, as a result of greater

engagement with parents and other services users. As a result, some LAs have made considerable cost savings where they have provided attractive group based care to families who might otherwise have felt there was no choice except to use more expensive overnight residential provision.

This option relies on service users (parents) to lobby for local services. Whilst we know that some LAs have excellent relationships with their local parents, a number do not listen to their views.

Parents of disabled children already face enormous pressures: for example, disabled children are much more likely than other children to live in poor housing, and to be in the lowest income groups, and as such the impact of fewer short breaks would fall disproportionately to the most vulnerable families.

Option 3: Introduction of Regulations to place statutory duties on LAs and so make explicit their responsibilities to continue to develop and improve their short break services for families with disabled children/young people.

Option 3 ensures that there should be a range of short breaks in any local area- so that families with children with severe disabilities continue to be provided for- and that the service must be planned according to local need and consultation. Consultation with parents is key to ensuring services really meet needs.

Costs	Benefits
£7830 (cost of time of revising the guidance). This is a one-off cost.	No monetised benefits, although provides statement of intent for policy- and clarity around breadth of provision. Includes duty to plan and publish on provision, and to consult with parents
Costs for LAs are wide-ranging, The maximum annual total spend is assumed to be £180m based on the amount of ring-fenced funding to be provided in the final year of this CSR period (2010/11)	Regulations should hold current benefits- so good range of short breaks, accessible to families who need them and part of planned local service provision.

This is the preferred option. By enshrining the provision of short breaks in law, parents would be able to challenge LAs who are not delivering and we could ensure consistency across all local areas in the level of service provision. It is the intention that outside the regulations, we would also ensure there is 'draw-down' support available to Local Authorities post 2011. These arrangements are, however, outside of this consultation.

COSTS AND BENEFITS OF PREFERRED OPTION

Number of children affected

The number of disabled children varies by definition so the size of the potential population that would be affected by the programme is uncertain. Research evidence indicates that disabled children make up approximately 7 percent of the 0-18 population,² which would imply that that total number of disabled children is approximately 800,000.

The eligibility criteria for short breaks mean that only a subset of the disabled children population is eligible to receive them. An assessment of need is made on the basis of level of disability as well as family circumstance to determine how well the family is able to cope with caring responsibilities. Since assessments are made on a case-by-case basis and different LAs interpret the criteria differently, it is

² Read, J (2007) Can we count them? Disabled Children and their households: Full research report. ESRC End of award report, RES-000-22-1725

not possible to estimate how many children are eligible for short breaks. Following the methodology of the recent Action For Children research on short breaks³, a proxy estimate for the eligible population can be made using data on Disability Living Allowance claimants under the age of 18.

In February 2010, the number of DLA claimants aged 0-18 was 332,710 cases entitled.⁴ This figure is assumed to be the potential number of children affected in the absence of unmet need. However, from the estimates given by Together For Disabled Children field forces, it is known that the number of children who accessed short breaks in 2009/10 is 104,257. Therefore only approximately one-third of the target population are being reached.

Number of children affected – 104,257

Potential number of children affected in the absence of unmet need – 322,710

One-off cost

As a one-off cost, the cost of revising the guidance is calculated based on the cost of civil servant time spent on the revision:

125 hours - time from DfE policy lead

80 hours – time from DH policy leads

25 hours – time from SEND Division’s professional adviser

20 hours – time from other members of the SEND policy team

20 hours – other policy leads who have contributed to the content of the guidance

20 hours – Equality policy people, analysts, DD time

A reasonable average cost per hour, given the Grades of most of these people, would be about £27 per hour. The total cost is then 290 hours multiplied by £27 which comes to £7830.

Monetizable Cost to LAs

The actual cost of short breaks is extremely difficult to estimate as it is not only based on population estimates, but also on individual family need, and a range of different types of short break. The £180m provided per year from 2008-11 is assumed to be sufficient to achieve programme aims. This is based on feedback from pathfinder local authorities regarding the level of funding they have been provided with.

The number of children receiving a short break as a result of this funding is around 47,000. The unit cost of short break provision is therefore:

$£180m / 47,000 \approx £3,830/\text{child}$

It should be noted that these unit costs can be reduced over time as the short breaks programme becomes more established and more of the eligible population receives access to services. It would be possible to do this without increasing aggregate cost depending on the types of short breaks services made available and how efficiently these are provided. The table below shows the different types of short breaks and the range of costs for each of these types.⁵

³ Action for Children publication “The social and economic value of short breaks”, New Economics Foundation Consulting, Dec 2009. <http://www.actionforchildren.org.uk/uploads/media/36/9163.pdf>

⁴ Department for Work and Pensions data, available at <http://83.244.183.180/100pc/tabtool.html>

⁵ Holmes, L., McDermid, S. and Sempik, J. “The Costs of Short Break Provision”, DCSF Research Report 224, <http://publications.education.gov.uk/eOrderingDownload/DCSF-RR224.pdf>

Service type	Costs
Residential overnight	£69.97 – £373.00 per child per night (24 hour period)
Family based overnight	£140.36 - £226.26 per child per night (24 hour period)
Day care	£99.21 – £204.83 per child per session (8 hours)
Domiciliary home care	£16.74 – £25.60 per family per hour
Home support	£17.54 – £25.60 per family per hour
Home sitting	£10.98 – £26.07 per family per hour
General groups	£296.68 - £430.61 per session
Afterschool clubs	£239.77 - £331.17 per session
Weekend clubs	£296.68 - 324.17 per session
Activity holidays	£113.38 (for a 2 day break) - £3,701.15 (7 day break)

Note: these costs have been updated since the previous impact assessment, produced to sit alongside draft regulations for consultation. The previous impact assessment used a study by the Shared Care Network to estimate the cost of provision. Together for Disabled Children are now able to provide data about the number of short breaks provided in local authorities, and this has enabled us to review the estimated costs. The previous estimate was much higher than this. The reduction in estimated cost may be due in part to the changes to services which have taken place over the last three years. TDC's evidence suggests that local authorities are able to provide more short breaks in group settings which are much more cost effective than services based on residential overnight care. It will never be possible for local authorities to stop providing overnight residential care altogether, as the severity of need of some children will always require that level of intensive support.

Monetizable Benefits

The benefits of short breaks provision are quantified as the costs prevented.

These are divided into six distinct elements:

- the cost to the family from parents not being in work;
- the cost to employers from parents' stress;
- the cost to the health service from parents' stress;
- the cost to schools from educating siblings with emotional and behavioural difficulties;
- the cost to social and educational services of caring for a disabled child outside the family home; and
- the cost to the family of separation and marital breakdown.

The following table presents a conservative and a high-end estimate of financial benefits, assuming different rates of success in reducing costs:

Cost	Sober estimate		High-end estimate	
	Percentage	per year	Percentage	per year
Lost earnings	40%	£1,445	60%	£2,167
Sick days	60%	£229	80%	£305
GP visits	60%	£171	80%	£228
School costs for siblings with EBSD	20%	£14	40%	£28
Residential care	60%	£548	80%	£730
Foster care	60%	£40	80%	£53
Family breakdown – one-off costs	20%	£2	40%	£3
Family breakdown – ongoing costs	20%	£57	40%	£114
TOTAL		£2,505		£3,629

Monetizable Costs and Benefits are based on estimates in the report by Copps, J. and Heady, L. "What Price an Ordinary Life? The Financial Costs and Benefits of Supporting Disabled Children and Their Families", New Philanthropy Capital, January 2007.

Under conservative estimates, we assume:

- forty percent of primary carers that do not work return to work part-time;
- sixty percent of extra sick days taken by parents of disabled children are prevented;
- sixty percent of GP appointments made by parents of disabled children are prevented;
- twenty percent of siblings of disabled children that would otherwise have developed EBSD do not;
- sixty percent of disabled children that would otherwise have gone into residential care do not;
- sixty percent of disabled children that would otherwise have gone into foster care do not; and
- twenty percent of families that would otherwise have separated do not.

These proportions represent what can reasonably be expected from short break services. Under the high-end estimate, the proportions are higher.

The costs and benefits as detailed in the research evidence presented above would imply that short breaks provision has a negative net present value per child. However, this only analyses the quantifiable benefits and is unable to value many of the wider benefits which are outlined below. There is a strong case to be made that the value of the wider benefits of the scheme, as outlined below, would produce a positive net present value, if it were possible to properly quantify them.

Note that totals for monetized costs and benefits cannot be determined because the number of disabled children varies by definition so a total figure for the population being served cannot be determined.⁶

Monetised costs and benefits – comparison

Cost per child receiving service = £3830 per year

Benefit per child

Conservative estimate = £2505 per year

High-end estimate = £3629 per year

⁶ DCSF Research Report no. RR042, "Disabled Children: Numbers, Characteristics and Service Provision", 2008

Total Cost = £3830 x 47,000 = £180m

Total discounted cost over 10 years = £1,497m

Total Benefit (Conservative) = £2505 x 47,000 = £118m

Total Benefit (High-End) = £3629 x 47,000 = £171m

Total Discounted Benefit (Conservative) over 10 years = £973m

Total Discounted Benefit (High-end) over 10 years = £1,422m

Net Present Value per £ spent over 10 years (conservative) = -0.27

Net Present Value per £ spent over 10 years (high-end) = -0.04

Non-monetizable benefits

The Net Present Values presented above do not capture the full value generated by the provision of short breaks services as there are substantial benefits that are unquantifiable, either because of the nature of these benefits or because of lack of adequate research evidence, and there is also a strong equity argument for providing short breaks that cannot be quantified. Some examples of the benefits that cannot be quantified are discussed below:

1. Benefits to parents:

The provision of short breaks that are regular, reliable and appropriate is a key service priority for parents with disabled children. The lack of such services was the biggest single cause of unhappiness with service provision and the single greatest unmet need in parental submissions to the 2006 Parliamentary Hearings on services to disabled children, undertaken as part of the HM Treasury/Department for Education and Skills review.

A break from caring is one of parents' most frequently reported needs (Beresford, 1995; Contact a Family, 2003) and families also require support that enables them to do activities together as a whole family. Parents who are satisfied with short-term breaks believe they are important in helping them continue caring for their child at home (Beresford, 1994; While et al. 1996). Research confirms the expansion in the range of short break provision seen in local authority monitoring data, and this diversity is important for meeting different needs (Langer et al 2010)⁷. Highest levels of parental satisfaction have been found for family based short breaks (Beresford, 1995), but some families and children prefer residential provision, particularly where nursing care is required, and some adolescents like spending time away from home with their peers. The perceptions of services for children with palliative care needs and their families examined in a recent survey found the most frequent unmet need was for short breaks (Hunt et al. 2002).

There is a considerable body of research showing that parents with disabled children have higher levels of stress and lower levels of well-being than parents with non-disabled children. For example particularly high levels of stress have been found among South Asian parents with disabled children compared to South Asian parents with non-disabled children (Hatton et al., 2002). Short break services are one of the main components of services available to relieve family stress. A literature review looking at the impact of short break provision found considerable qualitative evidence suggesting that short breaks contribute to carers and parents' well-being, particularly reduction of stress and the freeing up of time to carry out other activities (Robertson et al 2010)⁸. Research also suggests benefits for non-disabled siblings as carers or parents are more available (Langer et al 2010).

⁷ Langer, S., Collins, M., Welch, V., Wells, E., Hatton, C., Robertson, J. and Emerson, E. (2010) *Report on Themes Emerging from Qualitative Research into the Impact of Short Break Provision on Families with Disabled Children*

⁸ Robertson, J., Hatton, C., Emerson, R., Wells, E., Collins, M., Langer, S. & Welch, V. (2010) *The Impacts of Short Break Provision on Disabled Children and Families: An International Literature Review*

A number of research studies show that short breaks enable parents to continue caring for their disabled child at home (Beresford, 1994; Chan and Sigafos, 2001).

2. Benefits to Disabled Children:

Whilst short breaks have traditionally been seen mainly as a service to support parents, the Every Child Matters programme has increased recognition and awareness of the importance of positive outcomes for the disabled children and young people who receive them. Short break services should make a significant contribution to enabling disabled children to “enjoy and achieve” as they should experience them as fun, and an opportunity to access activities, organised leisure, sport and age appropriate outings of their choice. Short breaks should also enable disabled children to develop their social networks and friendships.

Studies consistently find that short breaks benefit disabled children by providing new experience and access to new activities, making friends and (for older children) encouraging separation from their parents (Robertson et al 2010). It is also likely that disabled children benefit from being cared for by less stressed carers, but direct evidence on this is more limited at present.

3. Benefits to public services:

A recent report by PriceWaterhouseCoopers (2007) also found that short breaks in some instances may also reduce long term costs of intervention. Greater choice of, and faster access to, appropriate services are important components of early intervention, often minimal service interventions can go a long way to improving life chances for disabled children. A recent study (McGill et al., 2006) found that long term residential placements were frequently made due to stress on the family, compounded by the lack of local services and support. Thus providing short break services may lead to significant savings to residential care budgets. A parent giving evidence to the Parliamentary Hearings (October 2006) stated:

You have to be at breaking point for help. My child is severely disabled; she meets all the criteria, yet I had to have a breakdown to get help. My children almost ended up in care. That is costly for any council, yet three hours a week help prevented this – what did that cost? (p.45)

RISKS

It is extremely hard to quantify the cost of short breaks. Short Breaks must be appropriate to family need, and as such a number of factors might contribute to any judgement, including: the nature of a child's disability; the ability of the family to cope; other situational factors within a family; locus of care (e.g. is the child 'Looked After'?). Different types of short breaks also have variable costs attached, and the costs may also have regional variations. These figures are not intended to be a one-size-fits-all model of cost, and are indicative only.

EVALUATION PLANS

DfE have commissioned an independent evaluation of the AHDC short break pathfinder sites as well as a wider qualitative research study into the impact of short break provision for families with disabled children/young people. We expect these studies will offer us helpful insights into a range of issues, barriers and examples of good practice in relation to the different ways that LAs provide short break services and the impact and benefits of such provision on the lives and aspiration of families and their disabled children/young people. The final evaluation report is due to be published in summer 2011.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review]; Existing policy will be reviewed as part of green paper implementation, and will use on-going evaluation material from NDTi (final report due Summer 2011)</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?] The review will of policy, and will take into account the impact of regulations.</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach] The review will be a combination of in depth evaluation by NDTi and a review of stakeholders views.</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured] The data collected by the field force (TDC) between 2010 and 2011 will serve as a baseline. The NDTi evaluation baselined in 2008, when the study began.</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives] Success will be measured in terms of parental confidence and number of short breaks offered.</p>
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review] NDTi will continue to conduct an extensive external evaluation of the policy until their final report in 2011.</p>
<p>Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]</p>

Add annexes here.

Annex A

Full Service Offer

A short breaks service should:

- be based on a needs assessment of the local disabled child population, taking into account the voice of disabled children, young people and their families;

- offer a significantly greater volume of short break provision set against a 2007-08 baseline, reflecting the additional funding levels available from Government;
- use fair, understandable and transparent eligibility criteria that enable short breaks to be used as a preventative service and which do not restrict provision to those threatened by family breakdown or other points of crisis;
- offer a wide range of reliable local short break provision, tailored to families needs and including:
 - a) support for disabled children and young people in accessing activities in universal settings, delivered through the following:
 - the support of a befriending, sitting or sessional service;
 - measures that build the skills of universal service providers;
 - measures specific to severely disabled children that are undertaken to meet their physical access requirements in universal settings. These would build on and exceed DDA compliance and ensure that the most disabled are not disadvantaged.
 - b) overnight breaks, with care available in both the child's own home and elsewhere.
 - c) significant breaks during the day, with care available in the child's own home and elsewhere:
 - provide positive experiences for children by promoting friendships and by encouraging social activities, new experiences and supportive relationships with carers;
 - provide culturally appropriate provision that meets the racial, cultural, linguistic and religious needs of disabled children and their families;
 - ensure that provision is available on a planned and regular basis and at the times when families and young people, need breaks - this should include evenings, weekends and holiday provision, and have the capacity to respond to urgent care requirements⁹;
 - provide fit for purpose and age appropriate provision which ensures the following groups are not disadvantaged in accessing short breaks:
 - a) children and young people with ASD¹⁰. These are likely to have other impairments, such as severe learning disabilities¹¹ or have behaviour, which is challenging. Not all children on the Autistic Spectrum will require specialist additional short break services
 - b) children and young people with complex health needs which includes those with disability and life limiting conditions who have reached the palliative care stage of their life cycle as well as other children and young people with complex health needs as well as other impairments – physical, cognitive or sensory impairments.¹²
 - c) children and young people aged 11+ with moving and handling needs that will require equipment and adaptations. These children are likely to have physical impairments, and many of them will also have cognitive impairments and / or sensory impairments;

⁹ Evidence suggests that there is very limited availability of emergency short break care, with less than 50% of short break carers offering emergency placements and when they do, it is to children already receiving short breaks from that carer.

¹⁰ An autism spectrum disorder (ASD) is a lifelong developmental disability characterised by difficulties in three areas: social communication, social interaction and social imagination, sometimes known as the triad of impairments. Children with ASD and accompanying severe learning disabilities have often missed out on short breaks.

¹¹ People who have severe learning disabilities are those who need significant help with daily living.

¹² These children require support, often including clinical and / or invasive procedures in order to maintain their optimum health on either a regular basis or in an emergency. Some of these children may be dependent on technology e.g. ventilation; tube feeding, dialysis. The need for advanced planning and preparation for technology dependent children cannot be under-estimated. To ensure the short break provision is provided safely it is crucial that this provision is developed in partnership between local authorities and PCT's. A significant requirement is the need to train sufficient staff to ensure they are competent to deliver safe care. The training implications for these staff are significant.

d) children and young people where challenging behaviour is associated with other impairments (e.g. severe learning disability). Children in this group will display behaviour which challenges services or behaviour which causes injury to themselves or others;

e) young people 14+. The young people who fall into this group are you people who are severely disabled and require services that are appropriate to their age.

- utilise the service provider that offers the best possible combination of skills and experience to deliver services of the highest possible quality to meet individual needs at the most efficient cost;
- promote information about available provision to the public, including details of eligibility - including threshold criteria - and routes to accessing the service.