BASW England
The professional association for social work and social workers

Member led response to the Law Commission’s proposals to update social care law for disabled children

Who we are

The British Association of Social Workers (BASW) is the UK’s professional association for social work with offices in England, Northern Ireland, Scotland and Wales. With over 22,000 members we exist to promote the best possible social work services for all people who may need them, while securing the well-being of Social Workers working in health, voluntary sector, independent and social care settings.

This response should be considered in the context of BASW’s established positions on equality, diversity & inclusion and on anti-discrimination, anti-racism & anti-oppression.

1. Background

BASW England members welcome the attention that has been brought to this important area of law by the Law Commission’s proposal. A review of the complex, confusing, outdated and neglected legal framework that statutory bodies use to coordinate support to disabled children and their families has been needed since at least the introduction of the Children and Families Act 2015 and the Care Act 2014.

We note that ‘disabled children’ are not a homogenous group and that the outcome of this process needs to meet the needs of all disabled children from across the wide spectra of need, social circumstances and cultural backgrounds.

1.1. The law as it stands

As outlined by the Law Commission in their consultation, ‘*the most important parts of disabled children’s social care law are section 2 of the Chronically Sick and Disabled Persons Act 1970 and section 17 of the Children Act 1989. Both these legal provisions were ground-breaking (*when first introduced).’

According to the Law Commission, societal changes mean that these laws are now out of date and unfair:

> ‘*parents … we heard from … have told us that the law is applied in a way which makes it difficult for their children to access the services they need*’.

1.2. Law Commission’s proposal

Details of the Law Commission’s proposal are attached in the references section below.

1.3. Law Commission consultation

The Law Commission’s consultation is open from 8th October 2024 to 31st January 2025 and comprises 84 specific questions about a 344-page document. This short timeframe and complexity of response means that BASW England is not able to respond fully to each question in the time allowed as we have not been able to organise in depth consultation with our members, except to explore the ambitions proposed in broad themes. Our members tell us they have struggled to engage with the complexity of the consultation and associated materials which suggests to us that many others will have had similar difficulties. As such we question whether the consultation can be considered to be meaningful.

2. Summary of BASW England's position

BASW England members are clear in their views that while updates to law and guidance are welcome:

1. **These changes must sit within the Children Act (notably s17) and not in a new Act: this is a unanimous view held by all members we have spoken to.**
2. None of these changes will cut through to the experience of disabled children and their families unless an **effective remedy or complaints system** is put in place.
3. The changes proposed, while broadly supported by Members in their ambition, will not deliver the changes required without **significant additional resources** to reduce Social Work workloads and to fund both the specialist and mainstream support disabled children and their families require.
4. Social Workers at all levels in statutory and voluntary organisations need a clear and fully resourced **programme of post-qualifying professional development** in order to be able to deliver effective support in this and other complex areas of practice.
5. While members support the updating social care law for disabled children, **this will not achieve the change required alone** without similar work to update the legal and practice frameworks for specialist education support or specialist health care for disabled children.
6. The concurrent changes proposed for children's Social Work in the Wellbeing and Schools Bill, the review of continuous professional development for children's Social Workers and the updating of the Mental Health Act and **other reforms in train must hold disabled children at their heart** so as to be consistent and coherent with these proposed changes.
7. In order to reduce the 'cliff edge' of transition, changes to social care law for disabled children should, wherever possible, be **consistent with the Care Act** and other established adult law and guidance (such as the Mental Capacity Act, the Mental Health Act and Continuing Health Care guidance) so as to remove the need to make changes to either entitlement, support or provision simply because you turn 18.
8. **Parents and family carers need their own enforceable right to support**. This should include the right to choose not to directly deliver the support their children need, for example if they want to be able to do paid work, which would reduce the number of families of disabled children who live in poverty. This change would be expected to have an impact across the life course of all the children in the families of disabled children with consequent positive impacts and demand reduction across all statutory services.

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3. Key issues for BASW England's response

3.1. Keep and uphold the Children Act

While agreeing that changes in law are needed, none of the BASW England members that we have spoken to think these system changes require new legislation. They hold an equally unanimous view that it is preferable to amend the Children Act and associated guidance, and section 3.1 of this document lays out members views on the issues that need to be resolved and why they feel this is best achieved within the Children Act.

In particular we consider that it is essential to amend 17(10)(c) and s17(11) [definition of disability] to bring them into line with the Care Act and with the entitlements of other children in need under s17(10)(a) and (b) and that this should be backed up by Statutory Guidance.

Parent blame:

Rightly, the Law Commission's consultation document references the experiences of parents who feel blamed rather than supported by an approach from Social Work teams that is child protection and risk focused rather than focused on how Social Workers could support the families of disabled children through both professional intervention and deployment of resources.

It is the clear view of all of our members we spoke to that these systemic failings result from poor practice, usually driven by lack of both staffing and financial resources, not an inadequacy in the Law. This can be remedied through improved guidance, better training for Social Workers, a right to advocacy for both parents and children, and most importantly, a social care system that is resourced so as to allow Local Authorities to discharge their duties in the way the law currently intends.

We note that concerns about parental blame extend across children's Social Work, and support the right of all parents to have the support of an advocate as highlighted by the work of the Parent Families and Allies Network.

In our view these systemic concerns about the prevalence of parental blame across children's social work lend significant weight to our argument that the changes we all want to see are best achieved through updating the Children Act and its Statutory Guidance rather than through new legislation specifically for disabled children. Such an update to the Children Act would benefit all children and families involved with children's Social Work, not just disabled children and their families.

Eligibility/diagnosis

Members and families report that some councils will not offer an assessment or support to a disabled child without a medical diagnosis. Given longstanding issues with NHS waiting lists for assessment and diagnosis, with waits of up to 2 years or more for a diagnostic assessment from specialist clinicians, this means that families can be unlawfully forced to wait for support that should be available at the point of assessment from the Local Authority, based on need not diagnosis.

As per parent blame, these systemic failings result from poor practice and lack of resources, not an inadequacy in the Law. This can be remedied through improved guidance, better training for Social Workers, and most importantly, a social care system that is resourced so as to allow Local Authorities to discharge their duties in the way the law intends.

Members would like clear guidance that s17 assessments should also consider the emotional and psychological needs of disabled children and young people, not just physical care needs, which is currently lacking.

Training/CPD

Social work team members at all levels and in all areas of practice, including senior and executive social work leaders, need a clear, accessible and fully resourced programme of post-qualifying professional development in order to be able to offer effective support to disabled children and their families that is delivered from within a legally compliant, rights based practice model built around the Social Model of Disability, in this and other complex areas of practice.

The undergraduate curriculum for Social Workers is already full, and a clear, funded commitment from central government to enabling qualified Social Workers to progress and develop the specialist skills needed if any of the proposed reforms in the law are to be implemented in any meaningful way.

While Doctors spend 10 years developing their practice and expertise once qualified through an NHSE funded and regulated programme of clinically supervised professional development, no such offer or financial investment exists for Social Work as a universal profession.

Statutory and Practice Guidance

The poor practice identified above (Parent blame and Eligibility/Diagnosis) can be improved by the development of Statutory Guidance and practice guidance, such as that associated with the Autism Act. To be fully effective, such guidance should be co-produced with Social Workers, with disabled children and their families and with disabled adults who can bring their personal experiences of living through the system of support for disabled children to the table. Inspection and assurance regimes would need to be updated to monitor compliance with such Statutory Guidance.

We recommend that the Law Commission considers whether rewriting Schedule 2 of the Children Act might achieve this recommendation for clear Statutory Guidance.

Limits of Local Authority Care

Section 17 of The Children Act as originally drafted requires Local Authorities to provide services to disabled children where they may not be able to '*achieve or maintain a reasonable standard of **health** or development'* without such services.

Through members who worked with Baroness Hale in drafting the Children Act, we understand that there was no intention for this to require Local Authorities to provide health care. This is supported by the Haringey Judgment in which Mr Justice Ousley found that the duty to support disabled children to achieve or maintain a reasonable standard of 'health and development' under the Children Act is '*not to be regarded … as reducing or replacing the … public obligations … set out in the … NHS Act'*.

We therefore propose that the language of s17 of the Children Act be updated to remove this potential confusion and to reflect the language of the Care Act, where the term 'wellbeing' was deliberately used instead of 'health' so as not to create such a potential confusion. The phrase would therefore become '*achieve or maintain a reasonable standard of **wellbeing** or development'*.

So as to clarify the limits of local authority care, members would recommend that the Coughlan judgement boundary between health and social care, as per s22 of the Care Act, be applied to disabled children, with the added advantage of creating coherence with adult law and removing the risk of families being charged for support that is currently free from the NHS.

Definition of Disability

Members do not agree with removing the exclusion of addiction and behaviours of concern from the Equality Act definition of disability. This is not consistent with the Care Act and risks making health care the responsibility of local authorities and therefore chargeable to families.

Furthermore, members are concerned that using the Equality Act definition of disability may not be fully consistent with the Care Act. This could mean that a child who is considered to be disabled under children's law is then not considered to be disabled when they turn 18. We therefore recommend that children's legislation uses the same definition of disability as the Care Act to remove this risk.

The law of unintended consequences

Until tested in Court, there is always a risk that Courts will interpret the law in ways not intended by those drafting the bill (see such an example in Limits of Local Authority Care).

We are particularly concerned that creating a new act rather than amending the Children Act risks further marginalising an already marginalised group in the way that they are supported by both Local Authorities and other statutory bodies, and risks shifting the health and social care boundary. Amending the Children Act rather than drafting new legislation reduces these risks.

We note also that many of the changes sought by the parents of disabled children, are also sought by other parents involved with children's social work teams. These families would miss out on improvements in law and practice if these improvements only applied to disabled children.

Whole family or holistic approach:

A major concern from members, both those in academic and practice-based positions, was that a separate legislative framework for social work with disabled children would reduce the likelihood of whole family or holistic assessments for disabled children. They felt that a narrow assessment under separate legislation, focused on needs related to disability, would be more likely to miss or neglect the opportunities and breadth of issues that can be covered and supported under a Child in Need s17 assessment. Members felt that issues such as poverty, isolation, racism, bullying at school, relations with siblings, isolation & lack of opportunities to develop friendships, poor housing, parent carer burnout, emotional wellbeing and the breadth of their intersecting identity based needs would be less likely to be addressed appropriately within a specialist assessment that focusses on needs relating to a disability. As one Social Worker said to us:

> *'I think we should work from an umbrella (*holistic*) perspective of supporting the whole family and supporting families through universal services, like we did under the Sure Start philosophy. If we remove disabled children from section 17, I fear we will be creating tiers of deserving support, with concomitant layers of judgement on parents' parenting. Actually, most families do not have just one area that need support. Creating different boxes will potentially prevent a holistic view on that whole family'*

To support this position members were asked to develop pen-picture practice exemplars that illustrate these risks. These can be found in the appendices below.

3.2. Get the remedies right

BASW England members, particularly those who are both Social Workers and parents of disabled children, told us very clearly that unless the system of 'remedies' can be made to work for families and young people any reform to the law risks being meaningless.

Members held the clear view that nothing in these proposals will work as intended unless the current complaints system is reformed and is given teeth. Members who are also parents of disabled children told us that currently the Ombudsman won't take on a concern unless the Local Authority's complaints process is complete, which means some Local Authorities seem to cynically draw out the complaint process to prevent parents going to the Ombudsman. Members also noted that the Ombudsman does not monitor implementation of their own rulings which means that their rulings continue to be ignored by Local Authorities.

Members who worked in Local Authorities noted that, since the 'reform' of Legal Aid in 2012, virtually no families are able to afford to seek a Judicial Review of Local Authority's decisions. Members felt that this lack of affordability has led to a slow deterioration in senior managers' attitudes to complaints and other remedies as they know there is little chance of any challenge, which has reduced public accountability. This has been compounded by the virtual disappearance of local newspapers and media, which means the chance of reputational damage in local media is no longer the motivator to do the right thing it once was.

3.3. Ensure coherence with other law, policy and practice changes

Wellbeing and Schools Bill

There are several areas contained within the Wellbeing and Schools bill that are essential to the reform an integrated support system for disabled children, particularly the proposed commissioning duties, such as effective market management and ensuring sufficiency of provision. We recommend that when MPs are scrutinising the Wellbeing & Schools Bill they must keep disabled children at the core of their thinking.

Early Career Framework

We recommend that any consultations and reviews of continuous professional development for Social Workers should include disability as a specialist area for post qualifying development. We also recommend the development of a nationally recognised career structure for Social Workers that appropriately recognises and rewards specialist practitioners to stay in practice rather than having to move into management positions to progress in their career.

'Transition' and 'preparing for adult hood':

Members told us they find the widespread and varied use of the word '*transition*' unhelpful and have told us they would like to see a distinction drawn in legislation and statutory guidance between a '*transition*' (or transfer) and the holistic and long term process of '*preparing for adulthood*.

Definitions:'

1. a **transition** in a social work context should be understood to be the intra-organisational arrangements that facilitate the transfer of Social Work and funding responsibility from a children's team to an adults' team. This typically occurs at 18. A similar transition happens within education when moving to a new school or college and within health at 18 on moving to an adult health team.
2. **Preparing for adulthood** is a long term holistic multi-disciplinary process to support the development of disabled children and young people such that they are best placed to achieve the typical ambitions and goals of all young people. It should start in early childhood, and should include age appropriate support to live an ordinary life. According to NDTi, a programme of holistic support to prepare for adulthood will focus on the four pathways of employment, independent living, community inclusion and health.

Transition**:**

In the view of our members, any project to update the law relating to disabled children must set itself the goal of reducing the 'cliff edge' between children's and adult's systems. In their view this means that a primary objective of this work must be to achieve legal, practice and systemic coherence and consistency with the Care Act, the NHS Act, the Mental Health Act and the Mental Capacity Act: this should include a shared definition of disability across children's & adult's law and a shared boundary with the NHS. While such coherence will not remove all anxiety about transition, it should remove many of the existing avoidable frustrations experienced by disabled children and their families.

Members also recommended that guidance for both the Children & Families Act and the Care Act should specify when adult social work teams should complete a transitions assessment which needs to be underpinned by core principles of 'best interest', 'co-production' and good practice models including a Named Social Worker approach and joined up multi-disciplinary planning. Members considered this to be an organisational issue so as to ensure an effective transfer between teams.

We would therefore recommend that, where it appears that the young person is likely to be eligible for support under the Care Act, both sets of guidance should be updated to include requirements for the adult social work team to be invited to the key year 11 EHCP review meeting (Children & Families Act) and for an adult Social Worker to attend that meeting (Care Act).

Preparing for Adulthood:

Members were clear that it is vital that a disabled young person's whole network, including their family, social worker, teachers and health professionals should start to work with them on their preparing for adulthood journey as early as possible but at the very latest by age 14 or in year 9.

Good practice would include, where appropriate, travel training in year 6 to enable disabled children to travel to school independently, reasonable adjustments to the process for transitioning from primary to secondary school or secondary school to FE colleges, supported by work in schools and colleges to explore the world of work for disabled young people. Children's Social Workers have a vital role to play in ensuring the voices and ambitions of disabled children and young people are heard, explored and supported by their whole network.

NHS Change

The 'shift' proposed in the Change NHS consultation to a focus on prevention and early help must include a commitment to early and preventative health care support for disabled children, particularly Autistic young people, and changes proposed by the Law Commission must be consistent with this NHS Change ambition.

Mental Health Act

There are a number of provisions in the Mental Health Act, such as

- Replacing 'nearest relative' with 'nominated person'
- Capacity for 16 to 18 year olds to agree an advanced choice document
- Capacity for 16 to 18 year olds to consent to treatment
- Learning Disability or Autism not a reason for detention
- Misuse of 'voluntary' stay in hospitals that do not trigger a section 117 aftercare duty

that will impact on disabled children and their families. We recommend that both these respective legislative processes must take the time to work through these overlaps and dependencies to ensure that they both work for disabled children and their families.

Review of Child in Need plans

The Children's Commissioner has recommended a review of Child in Need assessments and plans as '*it is impossible to meaningfully assess how effective child in need plans are as an intervention*'. We recommend that this review needs to take a comprehensive view of the system for assessing and providing support to disabled children.

3.4. Assessing need

Who completes assessments:

Our members feel that disabled children should be assessed by appropriately skilled Social Workers across the Social Work system, not just by Social Workers in a specialist disability team. 'Early Help' and Children in Need teams have a lot of skills to offer and need to be skilled up and trained so that they can assess disabled children and their families.

Members noted that the requirement contained in the 2015 Statutory Guidance for the Autism Act for an assessment of an Autistic adult or child to be completed by an appropriately skilled Social Worker has never been enforced, so we would suggest that mechanisms to monitor any such future requirement for an 'appropriately skilled' Social Worker are included in the Statutory Guidance to be co-produced and added to OFSTED's assurance framework and that of the SEND Joint Area Reviews.

Named Social Worker:

The 'Named Social Worker' model, applied by some Local Authorities, was given as an example of good practice by our members. Members noted that disabled children will have a lifelong relationship with their Local Authority and recommend that Local Authorities need to invest in a 'Named Social Worker' model and value that relationship.

Models of assessment:

Members noted that there is a plethora of overlapping and duplicative models of assessment, all of which operate within the parameters of s17. Members feel that as a system we need to be clearer in what a s17 assessment looks like in terms of disability rather than creating new legislation and noted that current guidance doesn't appropriately define a Child in Need and needs updating.

Members noted the recent report from the Children's Commissioner which found that '*it is impossible to meaningfully assess how effective child in need plans are as an intervention'*. Members would therefore recommend that a comprehensive review of Children in Need assessment and planning is undertaken that involves all stakeholders and has an explicit remit to meet the needs of disabled children and their families.

Eligibility for Assessment:

Members told us that not every child with an EHCP needs an assessment from social care. Members wouldn't want such a requirement to lead to more un-needed and pointless assessment activity. Members felt that if education and health assessments were more robust, and an **effective local offer** was in place, far fewer parents would request a Child in Need assessment for their children.

Members were not clear about what a 'reasonable' threshold for an assessment might be and would suggest that this needs to be consulted on further as part of the process to co-produce new guidance.

Portability and Passporting of assessments and support plans

Members felt that the portability of a disabled child's assessment and support plan is key. They told us that National criteria are being asked for by some families as they have come across examples of when a move from one Local Authority to another leads to vital support ceasing even though there had been no other change in circumstances.

One member gave an example of a family who moved just 10 minutes down the road. After the move their family went from having a good life to having no life because the new Local Authority would not accept their old assessment or honour the existing support plan. Members contrasted this with the Care Act for adults in which portability of assessments and support plans is mandated.

Similarly, members felt that a young person's support plan at 17 should automatically passport across at 18 to become their Care Act support plan. Members thought this could require Children Act eligibility to become consistent with Care Act eligibility or for the Care Act the be amended to require this, as per the current Care Act's position on portability of assessments and support plans.

3.5. This won't fix the whole Education, Health and Care system

Workforce

None of the issues affecting the current system of support for disabled children can be fixed without enough Social Workers to complete assessments and co-produce support plans with young people and their families. Given the evidence that social work students are reaching burnout before they even qualify and that social work is reported as being the profession with the highest risk of burnout, a national review of the terms and conditions for Social Workers, including both pay and workload, is urgently needed. Members noted that Social Workers employed by the NHS have substantially better terms and conditions.

Children and Families Act

The ambitions of the Children and Families Act for a system that offered seamless integrated care and support for disabled children and their families with no wrong front door has not yet materialised.

Significant review and reform of the SEND Code of Practice will be needed alongside the changes outlined here in order for disabled children and their families to notice any difference.

NHS capacity and waiting lists

Health care for disabled children is too often tied to special school provision, hence the increasing demand for places in special rather than mainstream schools. As per the Road Map for Children's Health, NHSE and the NHS Change programme must ensure an appropriate level of resources is allocated to children's health and not continue to assume parents are willing and able to meet all the health care needs of disabled children.

3.6. Needs of parents and family carers

Members described how parents currently must pursue so many avenues to try and get the support they need as carers, often to no avail. This fruitless pursuit of support applies across the education, health and care system. Members who are also parents of disabled children told us that they need better access to advocacy and 'named workers' in both the health and care systems who can help them navigate confusing and opaque systems to get the support they need.

Members felt that we should have clear guidance on a national offer for carers whose cared for is under 18, with similar rights to the carers of adults. Members told us that this is currently patchy as it is not defined in law, so many local authorities have virtually no offer of support for family carers.

Members who are also parents told us that they would like to see statutory rights-based guidance in the same way as the Care Act does for adults, including a right for family carers to be in paid employment. Not being able to undertake paid work due to caring commitments for their child is pushing many families into poverty and this impacts on the long-term outcomes of their whole family.

4. References

Disabled Children's Social Care. Full Consultation Paper: Law Commission

Disabled Children's Social Care. Summary Consultation Paper: Law Commission

Autism and parental blame research: ADASS West Midlands

Institutionalising Parent-Carer Blame: Cerebra

Social Work students facing burnout before they even start their careers: PSW Magazine

Social Work is the UK's 'riskiest' industry, research finds: Social Work Today

The healthiest generation of children ever: A roadmap for the health system: NCB

What is this plan for? The purpose and content of children in need plans: Children's Commissioner

Preparing for Adulthood: National Development Team for Inclusion

5. Appendices: Whole Child and Whole Family Exemplars

5.1. Practice Example from Academic Social Work Tutor

When I had a student placed in a specialist disability team, I became aware of some work that was very badly handled because the 'lens' of the team was too narrowly focused on disability. 'Penny' lived with her parents and had a moderate learning disability. She attended a 'mainstream' school and was provided with an intermittent Social Work service.

Penny's support needs escalated when her mother died of cancer when she was 9. Penny grieved for the loss of her mother and needed extra behavioural support to enable her to deal with her grief and loss. This was provided by both her school and Children's services disability team. Her father tried his best but had to continue working to maintain the family and his identity was strongly linked with his work.

Penny's father developed a new relationship with a neighbour who he married when Penny was aged 10. Penny's stepmother did not understand Penny's behaviour, which became more harmful, and she did not help Penny's father with adolescence issues such as managing menstruation. By this stage the family had an allocated Social Worker in the disability team, and after school services, clubs etc. were provided.

Tensions escalated between Penny and her stepmother and there was marital conflict over roles. Penny's father asked her Social Worker whether Penny could go to a foster family or children's home so as to give him the chance to revise work patterns: he had already refused a series of short breaks. This request was not taken as a request for Sec 20 vol accommodation by the Social Work team. In my view this is a weakness of the present system of separate disability teams which would be even greater if support to disabled children was provided outside of the Children Act.

Penny's situation deteriorated – her school made a referral to Children's Social Work on the grounds of emotional harm when Penny started head banging and pulling her hair out. The Social Work team initiated a Sec 47 inquiry, and a Child Protection plan was put in place. Court action was avoided as Penny was placed in voluntary care with a foster family that understood the father's dilemmas and Penny's needs. There were good contact arrangements at weekends with Penny's father when his new wife was away.

A positive: this case was pulled back from unnecessary use of court order and a positive long-term plan was arrived at by the student Social Worker who built good relationships with Penny and her father and tried to understand where father's wife was coming from.

Issues and risks: this was a disability team that gave itself unnecessarily tight 'boundaries' (as would almost certainly happen if it were a separate team under specialist 'disabled child' legislation). The disability team leader wanted to 'hand over' to the 'child protection team' which would have required a change of Social Worker.

The student Social Worker stuck to her guns, remained the family's and child's Social Worker and arranged shared supervision from the 'looked after' team leader whilst longer term plans worked out with Penny, her father and her foster family. This shows the vital importance of maintaining a whole Children Act focus.

It seems that the child protection inquiry could have been avoided if there has been a more holistic approach earlier to prevent the deterioration. I would note that a large minority of children in Sec 20 voluntary residential or foster care accommodation are disabled children who will all need this holistic approach.

I fear that some of these problems result from an insufficient emphasis on children and adult social care law within Social Work training and particularly in post-qualifying training.

5.2. Views of a Children & Families Social Worker and parent of a disabled child

I think removing disabled children from the Children Act is potentially detrimental for all children and their families, and a torpedo at the waterline of the Children Act. Once you start taking out one 'type' of childhood condition, why not others. The Children Act is meant to be THE piece of legislation that considers ALL children: this is a fundamental principle in my mind. Removing disabled children is detrimental for them and their families, because disabled children are children first and foremost. They should not be represented by just one aspect of their lives but by the totality of who they are, including their social circumstances.

It would be detrimental for other children to create a two tier approach to support children with or without a disability. If disabled children are removed from Children Act, are their legal rights going to be different from those of the rest of children? If so, why? If not, why remove them from the Children Act? Note, of course, that for some disabled children there would be an overlap, under which group would they be placed then?

There is already legislation, such as the Children & Family Act 2014 and the SEND Code of Practice, that adds specificity to disabled children's support. As a mother, these two pieces of legislation have everything I needed to ensure my child receives the support they need when I've taken my Local Authority to appeal.

What the current legislation lacks is accountability for Local Authorities. Currently, Local Authorities break the law and rely on parents not having the knowledge, time, finance or stamina to take them to court. Even when taken to court, Local Authorities 'win' because they have saved money by not providing the statutorily entitled resources. There should be oversight and accountability for Local Authorities that does not force parents to seek legal advice or go to court. Everything, ABSOLUTELY EVERYTHING, that might be done to improve the current system will be a waste of time and resources if this one point is not fixed. Local Authorities have demonstrated their capacity to ignore the current law, nothing indicates they won't continue to do so.

Re s17, disabled children, as children who require additional support, fit within the description of a child in need. Section 17 even includes the possibility of supporting the parents if that would support the child; this is a great point that it is usually overlooked.

The fact that Local Authorities conflate s17 and s47 assessments is a problem of practice, not the Act. What is going to happen to other s17 children if disabled children are taken out of the Act? Will their parents continue to be subject to a conflation between s.17 and s.47 assessments? Do not solve problems just for one group of children. Separating disabled children from other children in need will create unacceptable tiers of support and un/deserving categories.

There should be more clarity about the knowledge and expertise required for assessments of disabled children. But what happens when those children already have other professionals involved? There needs to be an obligation that these professionals will collaborate with the Social Work assessment. The SEND Code of practice already states that EHCP assessments should be collaborative and multidisciplinary. So perhaps it is the implementation of the law what should be looked at, rather than changing it?

Something within the legislation that should be changed is the role of the 'caseworker' in relation to EHCPs. In my experience as a parent, 'caseworkers' cut and paste from professional reports into an EHCP proforma, making arbitrary and unjustified changes in the process. I think the oversight of EHCPs could be aligned with S17 responsibilities and with Social Work support for the family. Again, this would not require removing disabled children from the Children Act.