Carers (Equal Opportunities) Act 2004

This Act aims to give carers more choice and better opportunities to have a more fulfilling life. For the first time carers are considered as people who have rights, like everyone else, including the right to work. The Act requires that:

- carers receive information about their rights to an assessment,
- carers who wish to return to work, take part in leisure activities, learn new skills or further their education, have these wishes considered during an assessment, and
- local authorities and other public authorities such as health, education, and housing co-operate in the planning and provision of services that may help and support the carer in their caring role.

The Act only applies to England and Wales. In Scotland, there is a campaign lead by Carers UK and ACE (Action for Carers and Employment), that is trying to raise awareness of the issues that affect carers and promote better access to provision of services for carers. In Northern Ireland, since 2003, local Health and Social Services Trusts (Trust) are able to provide services directly to carers, usually termed "carers' services". These can be anything which will help the carer to look after the person or help maintain their health and well being.

Under the 1995 Carers (Recognition and Services) Act, parents with the responsibility for a disabled child less than 18 years old, have a right to a separate assessment of their needs as carers. In addition, they also have the right to have their needs met, under the Carers and Disabled Children Act 2000.

So what does this latest Act mean for parents in England and Wales?

In a recently published guidance, the Department of Health states that

… Following the passage of the 2004 Act, the assessment should take account of the parent’s ability to provide or continue to provide care for the child and consideration of whether they work, or undertake any education, training or leisure activity or wish to do so. This means that local authorities have a duty to ask carers about these activities and take their wishes into account when planning the care package.

Parent carers now have the right for their wishes to have employment, training, education, and leisure opportunities considered during the assessment. This is particularly important because some local authorities have not been keen to provide services that would help a parent return to work or keep their job. Local authorities should not presume that parents will automatically continue their caring role. Assessments determine what sort of help parents need if they wish to continue their caring role. Some local authorities will try to combine all the various assessments into one in order to avoid unnecessary and repetitive meetings. But parents need to make sure that their own needs are covered – it is all too easy to forget them and concentrate on just your child’s needs.

Sometimes parents have reported that Social services have refused to assess them. So here are some facts that you can use the next time you talk to Social Services:

1. In England and Wales, Social Services have a duty, under Section 17 (10) of the Children Act 1989, to safeguard and promote the interests of children in need. The law states that disabled children are “children in need”. Scottish Local Authorities have the same duty to disabled children but under the Children (Scotland) Act 1995.
2. Families may be offered an initial assessment that will help social services decide if a core assessment (an in-depth assessment) is needed. Social Workers should complete the initial assessment within a maximum of seven working days and the core assessment should not take longer than 35 working days.
3. If your child is disabled and in need of services, you cannot legally be refused an assessment. Also, if you need help urgently, you can ask for services to be put in place straight away without waiting for the outcome of an assessment.
4. Social Services may decide there is no need for services but they must give **clear** reasons for their decision. If you disagree, you can challenge the decision using the Local Authorities Complaints Procedures.

Your child is considered disabled if they have a physical or mental damage or injury, to their mind or body. The disability must make it harder for them to carry out the same every day activities as a child without a disability. The effect of the disability must be long-term i.e. last more than twelve months. If the effect is substantial, and only lasts for a short time, but is likely to re-occur, (e.g. epilepsy) it would still have a long-term effect. Most ***Unique*** families will have no doubts about whether their child is disabled or not. But there are some children where the disability is not always immediately obvious. For example:

- A child might take longer to understand requests.
- It may take them more time to walk and more effort because they have low muscle tone.
- Eating and drinking take longer because they chew slowly or have difficulty swallowing.
- It is harder for them to use their hands and grasp pens, cups.
- A child cannot concentrate or sit still for more than a few minutes.

In some areas of the country where are many disabled children, Social Services have had to prioritise services for them. The criteria for deciding who gets help will vary from one authority to another. This means if a family moves to another local authority, they may lose some services. Or perhaps even gain extra help! You should not be assessed just for those services that the local authority currently provides. They must look at what services you need. If you are assessed as needing a respite break but there are long waiting lists then you should make a formal complaint.

The Carers (Equal Opportunities) Act 2004 did not have any extra money from the Government attached to it so Local Authorities will find it difficult to meet everyone’s needs. But at least they now have to consider the carer’s wishes when they draw up a care plan. The government has set out in “ Choice for Parents: the best start for children” its commitment to improve childcare for disabled children so that disabled children and families have access to the full range of child care options open to other families.

Local authorities have a duty to inform carers that they may be entitled to an assessment. If they have carried out an assessment in the past or previously informed carers about their rights, then they do not have to inform them again. This could mean that some carers miss out on any updates to the law.

If you would like more information about carers' rights there are a number of organisations that can help.
Carers UK
20-25 Glasshouse Yard
London EC1A 4JT
T. 0207 490 8818
F. 0207 490 8824
info@carersuk.org
www.carersuk.org
CarersLine T. 0808 808 7777
*Wednesday and Thursday
10am-12pm and 2pm-4pm

www.carers.gov.uk/ government website that gives details of services and benefits for carers