



**Suffolk Safeguarding
Children Board**

Safeguarding Disabled Children and Young People

Practice Guidance

This guidance should be read alongside Working Together to Safeguard Disabled Children 2015 and the DCSF Practice Guidance document Safeguarding disabled children (Murray and Osborne 2009).

Policy Version History

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1	05/09/2017	Janet Cooper-Medrano	19/10/2017

Disabled children, like all children, have a right to have their views, wishes and feelings taken into account when decisions are made about their lives. This right is set out in Article 12 of the UN Convention on the Rights of the Child (1989) and in a raft of other legislation, regulation and guidance that includes:

The **Children Act 1989** places a duty on local authorities to ascertain the wishes and feelings of a child before making any decisions concerning him or her and to give due consideration to those wishes. It also requires local authorities to identify children in need, support families in caring for children and to develop services around the centrality of a child's best interest.

The **Special Educational Needs and Disability Act 2001** The legislation requires that all higher education institutions do not discriminate against disabled students and prospective students.

The **Adoption and Children Act 2002** (section 119) imposes a duty on local authorities to provide advocacy services for looked after children, young people leaving care and children in need who wish to make a complaint under the Children Act 1989 complaints procedure.

The **Children Act 2004** established arrangements to promote better outcomes for all children in the areas of physical/mental health and emotional wellbeing; protection from harm and neglect; education, training and recreation; children and young people's contribution to society and social and economic wellbeing.

The **Aiming High Programme for Disabled Children and Young People 2007**, focused upon the growing inclusion agenda and the need to ensure staff across the children's workforce understand the safeguarding issues for disabled children and young people. This further highlighted the clear and ambitious vision set out in 'Improving the life chances of disabled people 2005 to give disabled people, including children and young people, the same opportunities and choices as everyone else, respect as equal members of society and the opportunity to participate as equals in every aspect of family and community life.

The review of **Winterbourne View Hospital, Dept. of Health 2012** recognises the right of children, young people and adults with learning disabilities of autism, who also have mental health conditions or behaviours described as challenging, to be given the support and care they need in a community-based setting, near to family and friends. It sets out a programme of action to transform services so that people no longer live inappropriately in hospitals but are cared for in line with best practice, based on their individual needs, and that their wishes and those of their families are listened to and are at the heart of planning and delivering their care.

The Children and Families Act 2014 introduced changes for how agencies work together to support and enable Children and young people with special educational needs (SEN) and disabilities – SEND.

- A new Education, Health and Care (EHC) Plan based on a single assessment process replaced special education statements. EHC plans will support children, young people and their families from birth to 25.

- The commissioning and planning of services for children, young people and families will be run jointly by health services and local authorities.
- Extends the rights to a personal budget for the support to children, young people and families.
- Local services available to children and families must be made available in a clear, easy to read manner.
- Local authorities must involve families and children in discussions and decisions relating to their care and education; and provide impartial advice, support and mediation services.

The Care Act 2014 and Transitions for Disabled Children

The Care Act 2014, came into force in April 2015, legislates as to how Local Authorities must provide services to adults requiring care and support that will enable them to achieve the outcomes that matter to them in their life. The Act applies equally to adults with care and support needs and their carers. It also applies to children with disabilities and their carers, when they reach the transition stage from children's into adult's services.

For disabled children, a young carer or an adult caring for a disabled child who is likely to have needs when they, or the child, turns 18, then under the Care Act 2014, the local authority must undertake an assessment if it considers it will benefit the individual in them doing so. This is even if the child or adult is not receiving any current services. This assessment can also be requested as the child approaches 18. The Act does not specify a specific age, prior to 18, at which an assessment can be requested, but the phrase "significant benefit" is used by which the local authority can decide if the young person or his/her carer would benefit from an assessment. The assessment is expected to identify what outcomes the service user wants to achieve, what their needs are in the present and what they are likely to be when they turn 18. Although affected by a range of legislation the key legislation for promoting the wellbeing of children with disabilities is the Children Act. Local authorities are required to safeguard and promote the welfare of children in need in their area and promote their upbringing by their families by providing a range and level of services appropriate to the children's needs. Children who are disabled, or affected by disability, are included in the statutory definition of children in need.

Safeguarding

Disabled children are recognised as the most vulnerable group in respect of **safeguarding** their wellbeing. They may have physical, sensory and learning **disabilities** and difficulties. Severely **disabled children** often rely on parents and carers to meet most or all of their needs.

Any child with a disability is by definition a 'child in need' under s17 of the **Children Act 1989**. Since the Disability **Discrimination Act 1995** was repealed in 2011 by the **Equality Act 2010** it remains unlawful to discriminate against a disabled person in relation to the provision of services. This includes making a service more difficult for a disabled person to access or providing them with a different standard of service. The Disability Discrimination Act 2005 (DDA) and the Equality Act 2010 define a disabled person as someone who has:

"a physical or mental impairment which has a substantial and long term adverse effect on his or her ability to carry out normal day to day activities."

This means that the needs of children and young people with long term illnesses such as leukaemia, diabetes, cystic fibrosis, or sickle cell are addressed. They may not usually be thought of as disabled, but their vulnerabilities may be similar. The key issue is the impact of abuse or neglect on a child or young person's health and development and how best to support them and safeguard their welfare.

Research suggests that children with a disability may be generally more vulnerable to significant harm through physical, sexual, emotional abuse and / or neglect than children who do not have a disability. See [Responding to Concerns of Abuse and Neglect Procedure](#).

Significant harm is defined in [Responding to Concerns of Abuse and Neglect Procedure, Concept of significant harm](#) as a situation where a child is suffering, or is likely to suffer, a degree of physical, sexual and/or emotional harm (through abuse or neglect) which is so harmful that there needs to be compulsory intervention by child protection agencies into the life of the child and their family.

Practice Guidance

The national guidance [Safeguarding Disabled Children - Practice Guidance](#) (DCSF 2009) provides a framework collaborative multi-agency responses to safeguard disabled children.

The NSPCC report 'We have the Right to be Safe – Protecting Disabled Children from Abuse' identifies key issues about safeguarding children. The link to the report can be found here: <https://www.nspcc.org.uk/services-and-resources/research-and-resources/2014/right-to-be-safe/>

The available UK evidence on the extent of abuse among disabled children suggests that disabled children are at increased risk of abuse, and that the presence of multiple disabilities appears to increase the risk of both abuse and neglect. See [Disabled children and young people and those with complex health needs](#). Disabled children may be especially vulnerable to abuse for a number of reasons:

- Many disabled children are at an increased likelihood of being socially isolated with fewer outside contacts than non-disabled children;
- Their dependency on parents and carers for practical assistance in daily living, including intimate personal care, increases their risk of exposure to abusive behaviour;
- They have an impaired capacity to resist or avoid abuse;
- They may have speech, language and communication needs which may make it difficult to tell others what is happening;
- They often do not have access to someone they can trust to disclose that they have been abused; and/or
- They are especially vulnerable to bullying and intimidation.

Looked after disabled children are not only vulnerable to the same factors that exist for all children living away from home, but are particularly susceptible to possible abuse because of their additional dependency on residential and hospital staff for day to day physical care needs.

- Force feeding;
- Unjustified or excessive physical restraint;
- Rough handling;
- Extreme behaviour modification, including the deprivation of liquid, medication, food or clothing;
- Misuse of medication, sedation, heavy tranquillisation;
- Invasive procedures against the child's will;
- Deliberate failure to follow medically recommended regimes;
- Misapplication of programmes or regimes;

- Ill-fitting equipment (e.g. callipers, sleep board that may cause injury or pain, inappropriate splinting);
- Undignified age or culturally inappropriate intimate care practices.

Safeguards for disabled children are essentially the same as for non-disabled children. Particular attention should be paid to promoting a high level of awareness of the risks of harm and high standards of practice, and strengthening the capacity of children and families to help themselves. Measures should include:

- Making it common practice to help disabled children make their wishes and feelings known in respect of their care and treatment;
- Ensuring that disabled children receive appropriate personal, health, and social education (including sex education);
- Making sure that all disabled children know how to raise concerns, and giving them access to a range of adults with whom they can communicate. Those disabled children with communication impairments should have available to them at all times a means of being heard;
- An explicit commitment to, and understanding of disabled children's safety; and
- Welfare among providers of services used by disabled children;
- Close contact with families, and a culture of openness on the part of services;
- Guidelines and training for staff on good practice in intimate care; working with children of the opposite sex; handling difficult behaviour; consent to treatment;
- Anti-bullying strategies; and sexuality and sexual behaviour among young people, especially those living away from home; and
- Guidelines and training for staff working with disabled children aged 16 and over to ensure that decisions about disabled children who lack capacity will be governed by the Mental Health Capacity Act once they reach the age of 16.

Where there are concerns about the welfare of a disabled child, they should be acted upon in accordance with the guidance in Chapter 5, in the same way as with any other child. Expertise in both safeguarding and promoting the welfare of child and disability has to be brought together to ensure that disabled children receive the same levels of protection from harm as other children (see [Safeguarding Disabled Children - Practice Guidance \(2009\)](#)).

Where a disabled child has communication impairments or learning disabilities, special attention should be paid to communication needs, and to ascertain the child's perception of events, and his or her wishes and feelings. In every area, children's social care and the police should be aware of non-verbal communication systems, when they might be useful and how to access them, and should know how to contact suitable interpreters or facilitators. Agencies should not make assumptions about the inability of a disabled child to give credible evidence, or to withstand the rigours of the court process. Each child should be assessed carefully, and helped and supported to participate in the criminal justice process when this is in the child's best interest and the interests of justice.

In criminal proceedings under the Youth Justice and Criminal Evidence Act 1999¹² witnesses aged under 17 (to be raised to under 18 by the end of 2010) may be eligible for special measures assistance when giving evidence in court. There is a presumption that child witnesses should give their evidence by video recorded statement (if taken) and live link, which allows a witness to give evidence during a trial from outside the courtroom through a televised link to the courtroom. The other special measures available to vulnerable witnesses include clearing the public gallery in sexual offence cases and those involving intimidation, screens to shield the witness from seeing the defendant, and assistance with communication through an intermediary or communication aid.

[Achieving Best Evidence in Criminal Proceedings: Guidance on vulnerable and intimidated witnesses](#) including children, gives detailed guidance on planning and conducting interviews with children and vulnerable adults and includes a section on interviewing disabled children and also those that are very young or psychologically disturbed.

See [Working with interpreters/communication facilitators Procedure](#).

Initial Contact and Referral

Where a professional has concerns that a disabled child may be being abused or neglected, they should follow their own agency policy and procedures for making a safeguarding referral to Suffolk Children's Social Care or the Police via the Suffolk Multi Agency Safeguarding Hub (MASH) - Customer First on 0808 400 8005.

References

Murray, M. Osborne, C. Safeguarding disabled children – Practice guidance (2009) HM Government DCSF: London

Working Together to Safeguard Children 2015 (2010) HM Government DCSF: London

Acknowledgements

London Safeguarding Children Board