

Safeguarding Disabled Children Practice Guidance

Applies to	Operational 1 - Royal Borough of Kingston upon Thames/ London Borough of Richmond The policy will be shared with Operational area 2 - Royal borough of Windsor and Maidenhead any may be adopted by them in the future
Review Board	Senior Leadership Team
Date created	March 2019
Signed off by	Ian Dodds, Achieving for Children Managing Director
Reviewing arrangements	This policy will be reviewed every two years to judge its effectiveness, or updated sooner in accordance with changes in legislation.
Next review date	March 2021
Equality analysis completed	https://docs.google.com/document/d/1paJGHbWzuxaZb1eb7aWZiT-s4-auBFSMxGalkHGvr1Y/edit?usp=sharing
Relating policies and procedure	Achieving for Children Safeguarding Children Policy

Contents

- 1. Introduction**
- 2. Aims and objectives**
- 3. Which children does this practice guidance**
- 4. Implementing this policy**
 - 4.1. Why are disabled children more vulnerable to abuse?
 - 4.2. Myths about protecting disabled children
 - 4.3. What does this mean for practice?
 - 4.4. Awareness of possible indicators of abuse and/or neglect for disabled children
 - 4.5. Initial contact and referral
 - 4.6. Investigating allegations of abuse involving disabled children
 - 4.7. Children in residential care and residential schools
 - 4.8. Allegations of abuse by an employee or volunteer against a disabled child
 - 4.9. Disabled young people who are accused of abuse
 - 4.10. Legal options in relation to deprivation of liberty and children or young people
- 5. Research and statistical evidence on safeguarding disabled children and young people**

1. Introduction

Disabled children can be abused and neglected in ways that other children cannot and the early indicators suggestive of abuse or neglect can be more complicated than with non-disabled children.

This practice guidance should be read alongside [The Children Acts 1989 and 2004](#), the [Pan London Child Protection Procedures](#), [Working Together to Safeguard Children 2018](#), the [Equality Act 2010](#), and [Short Breaks for Carers of Disabled Children 2011](#).

This practice guidance makes clear that disabled children have exactly the same human rights to be safe from abuse and neglect, to be protected from harm and achieve outcomes, as non disabled children.

Disabled children do however require additional action. This is because they experience greater vulnerability as a result of negative attitudes about their disability and unequal access to services and resources, and because they may have additional needs relating to physical, sensory, cognitive and/ or communication impairments.

This practice guidance ensures that there is an inclusive safeguarding system which will not only meet the needs of disabled children, it will improve practice for all children.

2. Aims and objectives

The purpose of the practice guidance is to:

- Make clear the particular issues, which influence the safety and welfare of disabled children, and ensure these are understood by all and acted upon;
- Ensure that the need for expertise in both safeguarding and promoting the welfare of the child, especially in relation to disability, is recognised and brought together in order that disabled children receive the same levels of protection from harm as non- disabled children;
- Make clear the critical importance of communication with disabled children including recognising that all children can communicate if they are asked in the right way by people who understand their needs and have the skills to listen to them;
- Reinforce the right of disabled children and their families to a thorough assessment of their needs and to services, which safeguard and promote the wellbeing of children and maximise their independence, including appropriate personal, health and social education;
- Reinforce the importance of an integrated approach to safeguarding and promoting the wellbeing of disabled children with a sound assessment of the child's needs, what matters to them, the parent's capacity to respond to their needs and the wider family circumstances;

- Ensure all agencies recognise that safeguarding and promoting the wellbeing of disabled children depends on effective information sharing, collaboration, shared expertise and understanding between agencies and professionals.

3. Which children does this practice guidance relate to?

This practice guidance uses a broad and inclusive definition of disability as outlined in disability discrimination legislation. For the purposes of Section 6 of the Equality Act 2010, a disabled person is someone who has a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities. The key issue is not what definition of disability has been used but the impact of abuse or neglect on a child's health and development, and consideration of how best to safeguard and promote the child's wellbeing in the future.

There are many different ways of understanding disability. This guidance is informed by an understanding of the 'social model' of disability, which uses the term disability not to refer to an impairment or functional limitation but rather to describe the effects of prejudice and discrimination. These are the social factors that create barriers, deny opportunities and disable people. Children's impairments can of course create genuine difficulties in their lives. However many of the problems faced by disabled children are not caused by their conditions or impairments but by negative attitudes, prejudice and unequal access to the things necessary for a good quality of life.

This practice guidance does not identify specific groups of disabled children. However given the importance of communication in relation to safeguarding, deaf children and children with speech, language and communication needs are specifically referred to. Children with speech, language and communication needs include those who use non-verbal means of communication as well as a wider group of children who have difficulties in communicating with others. It may be that they cannot express themselves effectively or that they may have difficulties in understanding what is being said to them. Equally those who work with them may not understand their way of communicating. Many children communicate successfully using non-verbal means such as signing, gestures, communication books or electronic communication equipment.

Those using this practice guidance will need to bear in mind when communicating with disabled children that everyone has the right to determine how they want to describe themselves. For example, many deaf children identify themselves as deaf rather than disabled.

Throughout this document, 'children' means 'children and young people'. As in the Children Acts 1989 and 2004 respectively, a 'child' is anyone who has not yet reached their eighteenth birthday. The fact that a child has become sixteen years of age, is living away from home or is in further education, or is in hospital, or in prison or a young offenders institution does not change their status or their entitlement to services or protection.

4. Practice guidance for professionals

This section offers practice guidance for all professionals working with disabled children. This includes those working in Children's Social Care, health, education, schools, early years, youth services, the youth justice system, the police, and the independent and voluntary sectors. It aims to raise the awareness of practitioners of the possible safeguarding risks disabled children can experience, and to take these into account in their day-to-day involvement with disabled children.

Safeguarding disabled children's welfare is everybody's responsibility, and given that we know that disabled children are more vulnerable to abuse than non-disabled children, awareness amongst professionals about safeguarding disabled children and what constitutes best practice, is essential.

4.1 Why are disabled children more vulnerable to abuse?

- Attitudes and assumptions within society and amongst those working with children can lead to a view that abuse does not happen to disabled children.
- A reluctance to challenge carers has been found together with a sense of empathy amongst practitioners with parents and foster parents who are felt to be under considerable stress.
- Dependency on a wide network of carers and other adults is the everyday experience of some disabled children in order that their medical and intimate care needs such as bathing and toileting can be met.
- Some children move between different care/education settings in one day and have multiple carers, even through the night.
- Disabled children may not have access to someone they can trust to disclose that they have been abused.
- Communication barriers mean that many disabled children including deaf children have difficulty reporting worries, concerns or abuse. Some disabled children do not have access to the appropriate language to be able to disclose abuse; some will lack access to methods of communication and/or to people who understand their means of communication. Disabled children and young people are sometimes assumed not to be reliable witnesses.
- Lack of participation and choice in decision making can disempower disabled children and make them more vulnerable to harm as can a failure to consult with and listen to disabled children about their experiences.
- Factors associated with impairments can lead to greater vulnerability to abuse. Behaviours indicative of abuse such as self harm and repetitive behaviours may be construed as part of a child's impairment or health condition.
- Isolation from other children and adults means that many disabled children struggle to tell others about their experiences making it easier for abuse and neglect to remain hidden.

- Double discrimination faces many disabled children from black and minority ethnic groups and refugee and asylum seeking children. They can experience additional difficulties and challenges in accessing and receiving services and often those they do receive are not sensitive to their culture and language or relevant to their needs.
- Spending greater periods of time away from home, particularly in residential settings is a risk factor for abuse.
- Lack of training and about safeguarding disabled children can result in professionals not recognising the signs of abuse or neglect.
- 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.

Disabled children are at risk of abuse and the presence of multiple disabilities appears to increase the risk of both abuse and neglect.

4.2 Myths about protecting disabled children.

- 'Disability protects'.
- 'Nobody would stoop so low'.
- 'Disabled children (especially learning disabled children) cannot discriminate abuse from routine touching'.
- 'Abuse doesn't affect disabled children'.
- 'Parents and carers of disabled children are saints'.
- 'Speech is the only valid way to communicate'.
- 'Disabled children are not sexual beings'.

4.3 What does this mean for practice?

This is summarised below:

- Professionals from all agencies/disciplines must be aware that the belief that disabled children are not abused or beliefs that minimise the impact of abuse on disabled children can lead to the denial of, or failure to report abuse or neglect. Essentially disabled children at risk of or who have experienced abuse or neglect should be treated with the same degree of professional concern accorded to nondisabled children.
- Additional resources and time may need to be allocated, if an investigation of potential or alleged abuse is to be meaningful. This is a basic premise and should not be ignored at any stage of the safeguarding process.
- Basic training and awareness raising of the susceptibility of disabled children to abuse is essential for all those working with disabled children, including ancillary staff such as bus drivers, care assistants, escorts and personal assistants.

- Reporting safeguarding concerns needs to be encouraged at all levels of professional involvement, and prompt and detailed information sharing is vital.
- The impairment with which a child presents should not detract from early multi- agency assessments of need that consider possible underlying causes for concern.
- Where a criminal offence is alleged, investigation by the police needs to be handled sensitively and in accordance with Achieving Best Evidence in Criminal Proceedings guidance.
- Strong partnership working where the focus remains firmly on the child.
- Parents and carers need to be made aware (if they are not already) of the vulnerability of their children to abuse or neglect, but also of their potential role in the safeguarding process.

4.4 Awareness of possible indicators of abuse and/or neglect for disabled children

All practitioners need to be aware of the possible indicators of abuse and/or neglect for disabled children

Whilst at times, it can be immediately apparent that a non-disabled child has suffered significant harm, it is not always so and lengthy enquiries are often necessary. Where there are safeguarding concerns about a disabled child, there is a need for greater awareness of the possible indicators of abuse and/or neglect, as the situation is often more complex. However, it is crucial when considering whether a disabled child has been abused and/or neglected that the disability does not mask or deter an appropriate investigation of child protection concerns. Any such concerns for the safety and welfare of a disabled child should be acted upon in the same way as that for a non-disabled child, as set down statute and guidance for child protection procedures.

When undertaking an assessment (and considering whether significant harm might be indicated) professionals should always take into account the nature of the child's disability.

The following are some indicators of possible abuse or neglect:

- A bruise in a site that might not be of concern on an ambulant child, such as the shin, might be of concern on a non-mobile child.
- Not getting enough help with feeding leading to malnourishment.
- Poor toileting arrangements.
- Lack of stimulation.
- Unjustified and/or excessive use of restraint.
- Rough handling, extreme behaviour modification e.g. deprivation of liquid, medication, food or clothing.
- Unwillingness to try to learn a child's means of communication.
- Ill-fitting equipment e.g. calipers, sleep boards, inappropriate splinting; misappropriation of a child's finances.
- Invasive procedures which are unnecessary or are carried out against the child's will.
- Non attendance at medical appointments.

- Unwillingness to comply with medical advice.

Professionals may find it more difficult to attribute indicators of abuse or neglect, or be reluctant to act on concerns in relation to disabled children, because of a number of factors, which they may not be consciously aware of. These could include:

- Over identifying with the child's parents/carers and being reluctant to accept that abuse or neglect is taking or has taken place, or seeing it as being attributable to the stress and difficulties of caring for a disabled child.
- A lack of knowledge about the impact of disability on the child.
- A lack of knowledge about the child, e.g. not knowing the child's usual behaviour.
- Not being able to understand the child's method of communication.
- Confusing behaviours that may indicate the child is being abused with those associated with the child's disability.
- Denial of the child's sexuality.
- Behaviour, including sexually harmful behaviour or self-injury, may be indicative of abuse.
- Being aware that certain health/medical complications may influence the way symptoms present or are interpreted. For example some particular conditions cause spontaneous bruising or fragile bones, causing fractures to be more frequent.

All professionals who work with disabled children should be alert to the above indicators of abuse and take them into account, where appropriate, if they have concerns about the welfare of a disabled child. They are however, particularly relevant to those undertaking safeguarding and/or criminal investigations.

4.5 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 Children's Social Care. Of the utmost importance however, is to share such concerns at the first opportunity either with an appropriate manager or with the designated member of staff who has responsibility for safeguarding in the agency/service provider, so that a referral can be made promptly.

Do not be 'put off' by concerns that a referral to a statutory agency will not be taken seriously or that an inappropriate concern is being raised about the welfare of a child.

Disclosing abuse is difficult for any child. For a disabled child it may be especially difficult, as they may not have the means to communicate about their abuse experience(s).

For some disabled children with speech, language and communication needs, making known that they have been subject to abuse, neglect or ill treatment is dependent on the positive action

undertaken by professionals. Thus, it is of the utmost importance that such concerns are passed on to a statutory agency

For those receiving initial contacts and referrals concerning a disabled child, there are however additional points, which need to be taken into account at this early stage.

These are:

- Extra resources may be necessary, especially where a child has speech, language and communication needs, in order to ensure that an appropriate assessment can be undertaken.
- It is thus recommended best practice that safeguarding concerns/referrals concerning disabled children are assessed by practitioners who are both experienced and competent in child protection work, with additional input from those professionals who have knowledge and expertise of working with disabled children.
- As with non-disabled children, it is not always obvious from an initial contact with a family that there is a child protection issue to be considered. Professionals, the family, the child and others may emphasise other problems or difficulties and the need for protection from harm may not always be obvious. Thus, the practitioner receiving the referral should systematically seek information about the identified needs and circumstances that have prompted the contact.
- As with safeguarding referrals concerning non-disabled children, it is important that where possible as much accurate information is gathered, in order to fully understand the context and assess the likelihood of harm to the child. It may be necessary to obtain an accurate assessment of the child's understanding and language abilities from their parent, teacher and speech and language therapist and then take advice on communicating or working with the assistance of someone who knows the child well.

In addition, the following questions should be considered and asked when a referral is received concerning a disabled child:

- What is the disability, special need or impairment that affects the child? Ask for a description of the disability or impairment: for example, 'learning disability' could mean many things and does not tell you much about the child or their needs.
- If you do not know how to spell a word that describes an impairment or condition ask how it is spelt. This will be important if further enquiries are required about how the condition might be expected to affect the child.
- How does the disability or impairment affect the child on a day-to-day basis?
- How does the child communicate? If someone says the child can't communicate, simply ask the question: "How does the child indicate s/he wants something?"
- How does s/he show s/he is happy or unhappy?
- Has the disability or condition been medically assessed/ diagnosed?

4.6 Investigating allegations of abuse involving disabled children

Where there is a reasonable cause to believe that a disabled child is suffering, or is at risk of suffering, significant harm the same processes are followed as for a non-disabled child.

Strategy discussion:

Disabled children are subject to the same procedures for initiating a strategy discussion and meeting, as non-disabled children.

Section 47 enquiries and assessments:

The assessment process is the means by which a section 47 enquiry is carried out. Section 47 of the Children Act 1989, states that the Local Authority has a duty to investigate when there is reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm. The section 47 enquiry will include an objective assessment of the needs of the child, including the likelihood of abuse or neglect and need for protection, as well as the family's ability to meet those needs.

When undertaking investigations/assessments into allegations of abuse concerning disabled children, practitioners need to take into account the following considerations:

- Whilst section 47 enquiries are being carried out, the first responsibility, as with any investigation into allegations of abuse and/or neglect is to ensure that the child is safe.
- Where there are abuse allegations relating to a disabled child the safeguarding needs of any siblings living in the family home also need to be considered.
- Where there are allegations of abuse and a disabled child is the alleged perpetrator, investigations need to be handled with particular sensitivity. A duty of care should be shown to both the victim and the alleged perpetrator.
- Any enquiries planned or undertaken should be carried out with sensitivity and an informed understanding of a disabled child's needs and disability. This includes taking into consideration matters such as the venue for the interview/s; the care needs of the disabled child; whether additional equipment or facilities are required; who should conduct the interview and whether someone with specialist skills in the child's preferred method of communication needs to be involved.
- As with all section 47 enquiries, the need for accurate, detailed, contemporaneous recording of information is essential.
- Throughout all discussions (including strategy discussions, section 47 enquiries/assessments, the initial child protection conference and any subsequent child protection review conferences), all service providers must ensure that they communicate clearly with the disabled child and family, and with one another, as there is likely to be a greater number of professionals involved with a disabled child than with a non-disabled child.

- The disabled child's preferred communication method for understanding and expressing themselves needs to be given the utmost priority, and where a child has speech, language and communication needs, including those with non-verbal means of communication and deaf children, arrangements will need to be made to ensure that the child can communicate about any abuse or neglect she/he is experiencing and their views and feelings can be made obtained.
- Where the parents of a disabled child have a disability themselves, arrangements also need to be put in place to accommodate their needs throughout the investigation/assessment process.
- The number of carers involved with the child should be established as well as where the care is provided and when. A disabled child's network of carers could include short break foster carers, volunteer befrienders, sitters, personal assistants, community support workers, residential care staff, independent visitors and learning support assistants.
- The collating of medical information concerning the health needs of the child is important as it may have a bearing on the outcome of any enquiry/investigation.
- Where there is a need for a medical examination, consideration needs to be given to the most appropriate medical professional who should undertake the examination, the venue, timing and the child's ability to understand the purpose of the medical procedure.
- Where there is to be a police investigation into allegations of abuse or neglect of a disabled child, those undertaking such investigations should not make presumptions about the ability of the child to give credible evidence. All such investigations should be undertaken in accordance with the practice guidance Achieving Best Evidence in Criminal Proceedings: Guidance on vulnerable or intimidated witnesses including children (Home Office, 2000), which includes specific guidance in relation to disabled children.
- Following any section 47 enquiries, the need for the disabled child and their family to be provided with ongoing support, should be recognised. This is especially important where disabled children have disclosed that they have been abused. The need for therapeutic services for disabled children, following such experiences is not always recognised. Emotions can show themselves in other ways, for example, self-harm or challenging behaviour.

4.7 Children in residential care and residential schools

Children living away from home are particularly vulnerable, as family contact may be reduced because of distance, or family support is weak because of a breakdown in the family circumstances. Children are also exposed to a high number of carers in these settings, which again increase the risk of abuse.

For residential care and schools identified for our children, all establishments must have the following in place:

- A clear safeguarding and child protection policy which highlights the vulnerability of disabled children;

- Clear guidance on the use of medication, eating and drinking, intimate care;
- Clear guidance on restrictive physical intervention (restraint), which defines what is and is not acceptable;
- Risk assessments which clearly outline how the child's needs for care, supervision and safety are to be met, and what are permissible forms of restraint and control;
- All staff have received training on Safeguarding Disabled Children;
- A clear procedure regarding allegations against staff is in place

4.8 Allegations of abuse by an employee or volunteer against a disabled child

In the event of allegations being made against an employee or a volunteer involving a disabled child, the safeguarding children policies and procedures of the agency need to be instigated, in line with disciplinary procedures, where appropriate.

4.9 Disabled young people who are accused of abuse

Studies of adolescent sexual offenders have found that between a third and a half are children and young people with learning disabilities. This group are also overrepresented amongst those being treated for harmful sexual behaviour. It is not clear why this is but one relevant factor is that many of the young perpetrators have also been abused themselves – and children and young people with learning disabilities are particularly vulnerable to abuse. Successful interventions with young abusers require specialist treatment and it is important that disabled young people are not denied access to such treatment. Multi-agency assessment and joint-working will be particularly important for this group of young people.

4.10 Legal options in relation to deprivation of liberty and children or young people

Local authorities are under a duty to consider whether any children in need, or looked after children, are, especially those in foster care or in a residential placement, subject to restrictions amounting to a deprivation of liberty.

A deprivation of liberty will be lawful if warranted under statute; for example, under s.25 of the Children Act 1989 or the Mental Health Act 1983 or under the remand provisions of LASPO 2012 or if a child has received a custodial sentence under the PCCSA 2000.

The table below sets out the circumstances in which you can use the following legal options in cases where a child may be deprived of their liberty. To be considered in relation to placing children with disabilities in residential placements.

Age of child or young person	Consent of person with parental responsibility	Court of Protection	Children Act 1989 Section 25 Secure Order	Deprivation of Liberty Safeguarding (DoLS)	Mental Health Act 1983 (MHA)	High Court (inherent jurisdiction)
15 or under	Yes - but see notes below	No.	Yes - but see notes below	No	Yes - but the child needs to meet the criteria for the MHA and the placement must be authorised to accept the MHA detentions	Yes. This is a fallback option when others are not available
16-17	No	Yes – in any placement if the person lacks capacity.	Yes	No	Yes – but the child needs to meet the criteria for the MHA and the placement must be authorised to accept MHQ detentions	Yes. This is a fallback option when others are not available
18 and over	No	Yes – in any placement (not covered by DoLS) if the person lacks capacity	No	Yes – but only if the person is living in a care home or hospital and lacks capacity	Yes – but the person needs to meet the criteria for the MHA and the placement must be authorised to accept MHA detentions	Yes. This is the fallback option when others are not available

Notes on the table: parental consent – if a child under 16 is not under a formal Care Order a Local Authority may in some cases rely on parental consent if it is given in the proper exercise of parental responsibility. Technically in law such consent would mean the restrictive care arrangements were not a deprivation of liberty for the purposes of article 5 of the European Convention on Human Rights.

It would be inadvisable for practitioners to rely upon consent from person with parental responsibility, in the face of a Fraser competent refusal from a child without recourse to the court.

If an accommodated child under the age of 16 is the subject of an interim care order or a care order, it is extremely unlikely that a parent could consent to what would otherwise amount to a deprivation of liberty. In those circumstances court authorisation is required (*A Local Authority v D and others* [2015] EWHC 3125 (Fam)).

5. Research and statistical evidence on safeguarding disabled children and young people

5.1 How common is the abuse of disabled children?

- Research evidence suggests that disabled children are more vulnerable to abuse than non-disabled children. A large scale American study that examined records of over 40,000 children found that disabled children were 3.4 times more likely to be abused or neglected than non-disabled children. Disabled children were 3.8 times more likely to be neglected, 3.8 times more likely to be physically abused, 3.1 times more likely to be sexually abused and 3.9 times more likely to be emotionally abused. Overall, the study concluded that 31% of disabled children had been abused, compared to a prevalence rate of 9% among the non disabled child population.
- Smaller scale studies in the US have also reported significant levels of abuse of deaf children and children with Autism and Asperger's Syndrome.
- Research in the UK has been limited but a number of studies have indicated similar levels of abuse and neglect to that found in the US. Higher levels of maltreatment of disabled young people than their non-disabled peers were found in a study of 3000 young people aged 18 –24 .
- In relation to sexual abuse by people who were known to the child but not family members 22% of disabled young people reported experiencing sexual abuse compared to 15% of the sample as a whole.
- Safeguarding of disabled children can involve a large number of professionals. A serious case review in 2014 highlighted the number of professional that may be involved and the pressures this can have on the family. It suggested that a lead professional should perhaps be involved under these circumstances and it is important to remember that a lead agency or practitioner should coordinate these complex and challenging family dynamics.
- Factors associated with impairments can lead to greater vulnerability to abuse.
- Behaviours indicative of abuse such as self-mutilation and repetitive behaviours may be misconstrued as part of a child's impairment or health condition. It is of vital importance that professionals are adequately trained and alert to recognise indicators of potential abuse or changes in children, which might indicate that something is wrong, and to understand particular behaviours associated with impairments.

- A seven year old boy's constant masturbation was 'explained' by his autism and his attempts to touch adults sexually were initially attributed to his confusion about boundaries. Several years later his father was convicted of sexual assault of all three children in the family. (Source: Triangle).

It is important to remember that children and young people may be disabled but safeguarding for them is no different. Professionals must be vigilant for all types of abuse including physical, emotional, neglect, fabricated and induced illness, and sexual.