



**Safeguarding Disabled Children and
Young People:
Practice Guidance for All Agencies**

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Introduction

This guidance should be read together with the Surrey Safeguarding Children Board Safeguarding Children Procedures and other specific SSCB Practice Guidance's.

The term "disabled children and young people" in this context is intended as a broad and inclusive term which may include any child or young person who has a physical, sensory or learning impairment or a significant health condition.

This practice guidance has been based on guidance published by Nottingham City and Nottinghamshire LSCB and Tadworth Children's Trust.

Nottingham's guidance was based on work carried out by Margaret Kennedy. Nationally, Margaret Kennedy is recognised as a leading expert in terms of practice development for work with disabled children.

This guidance is for all staff in partner agencies that work with any such children, and is intended to be complementary to the procedures and other guidance referred to above, not to replace them.

Inevitably, not all areas of the guidance will apply to each child or young person and their particular circumstances.

Chapter 1

Purpose of Guidance

1.1 The purpose of this guidance is to ensure that all agencies are assisted in their responsibilities to:

- safeguard disabled children and young people
- apply the SSCB Safeguarding Children Procedures equally to disabled children as to non disabled children
- understand particular issues which influence the safety and well being of disabled children and young people
- communicate directly with disabled children and young people whose safety and well being is under investigation

1.2 The Disability Discrimination Act (DDA) 1996 made it unlawful for service providers to treat disabled people less favourably than non-disabled people for a reason related to their disability.

This is the legal basis for all agencies having to ensure that their practice offers the same level of safeguarding to disabled as to non-disabled children and young people.

An amendment to the DDA which came into force in December 2006 has increased the responsibility of all public bodies by giving to them a duty to promote disability equality.

1.3 Discrimination of all kinds is an everyday reality in many disabled children's and young people's lives and the prejudice damage them both physically and emotionally. It is therefore important that stereotyped assumptions should be avoided. In addition, black and minority ethnic children and young people, particularly Asian children and young people, are over-represented in the numbers of disabled children and young people, and frequently are even more isolated*. Additionally, there is early indication from a local needs assessment to suggest that parents of disabled children are more likely than the general public, to use substances problematically.

There is a need to ensure that all staff is aware of the mechanisms in place to ensure early identification and thorough assessments.

1.4 All children and young people should have the opportunity to achieve optimal development according to their circumstances and age. Disabled children and young people have a right to services that support and safeguard them and maximise their independence.

*www.everychildmatters.gov.uk

Chapter 2

Vulnerability of Disabled Young People.

2.1 Organisations must ensure that their staff are aware that disabled children and young people may be more vulnerable to being abused as a result of a number of factors. These include:

- Significant communication needs
- Physical vulnerabilities
- Intimate care needs
- Need for physical handling
- Having multiple carers
- Being socially isolated
- Care needs/behaviour challenging the ability of carers to cope
- Lack of support/training for parents and carers in dealing with difficult behaviour
- The child/young person being perceived as being of lower status
- Parents may accept lesser standards of substitute care as a result of their need for support/respite
- Some children may behave in ways that are self-harming
- An assumption that behaviour is an integral part of the child's condition, rather than a response to abusive treatment or a negative reaction to medication

2.2 Organisations must ensure that arrangements are in place to minimise the likely impact of these vulnerabilities on disabled children and young people by:

- ensuring that the required policies and procedures are in place for dealing with difficult behaviour
- ensuring that staff are trained appropriately
- where a child/young person is cared for away from home ensuring they have access to an independent advocate
- promoting children and young people's rights and right to safeguarding
- ensuring children and young people have access to information about their rights
- ensuring that children and young people's basic right to communication is always met.
- **access to information about strategies for keeping safe that is usually available to other children and young people**
- ensuring staff are aware of the warning signs of fabricated or induced illness

Chapter 3

Listening to & Communicating with Disabled Children/Young People

3.1 In order to include the disabled child or young person appropriately in any investigation of their needs, their views must be listened to. Therefore any particular communication needs they have must be met.

3.2 The local authority has a duty to investigate in accordance with the Children Act 1989, Section 47. The Children Act 2004, however, strengthens the Local Authority's responsibility to "ascertain the child's wishes and feelings regarding the action to be taken with respect to him" [Children Act 2004 section 53].

3.3 All reports that are written about a disabled child or young person should include their views, wishes and feelings, and how they have been ascertained.

3.4 Workers must identify barriers to access services and must aim to make information provided available to disabled children/young people and their parents. This information should take account of the child/young person's impairment, the child/young person's and parents' preferred formats and be made available within agreed time frames.

3.5 Many disabled children or young people need alternative or additional means of communication to understand and to express them. The best practice for disabled children is for a worker with appropriate communication skills to be allocated.

3.6 Additional and alternative means include objects, pictures, symbols and signs or an electronic communication device. Professionals such as speech and language therapists, occupational therapists and physiotherapists, doctors and school nurses can provide advice and support for disabled children/young people and may be able to advise on a range of access issues. As some disabled children and young people use means of communication that are very personal to them, it is important to involve professionals who know the child well. Deaf children may need an independent sign language interpreter. Workers must not rely on someone who may be abusing the child to assist with communication.

3.7 Consideration should be given to referring to an independent specialist advocate.

Chapter 4

Indicators

4.1 Professionals in all agencies who come into contact with children and young people with disabilities are in a position to identify indicators that the child may be suffering or may be at risk of significant harm. These are included in the SSCB Child Protection Procedures and apply equally to disabled children and young people. There may be differences, and a child/young person's disability should always be considered when considering whether significant harm might be indicated. For example a bruise in a site that might not be of concern on an ambulant child/young person, such as the shin, might be of concern on a non mobile child/young person.

4.2 Because of the particular needs of disabled children and young people they may also be at risk of being abused in other ways including:

force feeding or inappropriate feeding

- Their personal care needs may not be met adequately
- Physical restraint being carried out unnecessarily or not in accordance with available guidelines
- Rough handling
- Extreme behaviour modification including the deprivation of clothing, medication or food, limiting movement, restricting freedoms, locking doors etc.
- Misuse of medication, sedation, heavy tranquillisation
- Invasive procedures which are unnecessary or are carried out against the child/young person's will
- Being denied access to required medical treatment
- Misapplication of programmes or regimes
- Ill fitting equipment e.g. callipers, sleep boards which may cause injury or pain, inappropriate splinting
- They may be more susceptible to bullying
- They may be more vulnerable to abuse using Information Communication Technology.

4.3 Professionals may find it more difficult to attribute indicators of abuse or be reluctant to act on concerns in relation to disabled children and young people because of a number of factors which may include:

- Professionals over identifying with the child/young person's parents/carers and being reluctant to accept that abuse could have taken place, or seeing abuse as being attributable to the stress and difficulties of caring for a disabled child/young person
- A lack of knowledge about the impairment and its impact on the child/young person

- A lack of knowledge about the child/young person, e.g. not knowing the child/young person's usual behaviour or demeanour
- Not being able to understand the child/young person's communication
- Confusing behaviours that may indicate the child/young person is being abused with those associated with the child/young person's impairment
- Denial of the child/young person's sexuality
- The child/young person having a number of carers.

4.4 Behaviour, including sexually harmful behaviour or self -injury, may be indicative of abuse.

- Carers may have unrealistic expectations of the child
- Failure to follow treatment plans

4.5 Certain health/medical complications may influence the way symptoms present or are interpreted. Certain indicators may be present that are attributable to the child/young person's condition or medical treatment. For example, some anti-convulsants may lead to spontaneous bruising and some particular conditions can cause fragile bones increasing the likelihood of fractures during normal day to-day activities.

4.6 Because of this it is essential that relevant and pertinent information is recorded clearly on a child/young person's file. This may include communication methods used by the child/young person to understand and express themselves, severity of disability, numbers of care givers, and level of care required etc.

4.7 The requirement to consult with the parents of any child or young person if there are concerns about their well-being, applies to disabled just as to non disabled children and young people.

4.8 Where there are concerns about a child/young person it is essential that workers with the required knowledge and skills, and who know that child, are involved promptly.

4.9 Where a worker is not clear if a child/young person's particular injury or behaviour is indicative of abuse, or is associated with their disability, they should seek advice from a professional who knows the child and the implications of their disability well, for example, a community paediatrician, a school nurse, a teacher, etc.

Chapter 5

Assessment

5.1 There will be situations where there are significant concerns about a child or young person, and it will be necessary clarify their risk of significant harm under Part 111 of the Children's Act, 1989

In these circumstances the objective of the Local Authorities involvement is to determine whether action is required to safeguard and promote the welfare of the child or children who are subjects of the enquiries.

A core assessment is the means by which a S47 enquiry is carried out. LA children's social care has the lead responsibility for the core assessment under s47 of the children's Act, 1989. The assessment is undertaken in accordance with the 'Framework for Assessment of adequately safeguarded (see the SCB Children in Need and Their Families' Inter-agency Child Protection (DoH). It should be led by a qualified and experienced social worker.

These enquiries should take additional guidance regarding disabled account of any information gathered children. Through the Common Assessment Framework (CAF) or initial assessments.

Chapter 6

Investigating allegations of child abuse involving disabled children/young people or siblings of disabled children/young people

6.1 Where there is reasonable cause to believe that a child or young person is at risk of significant harm they should be referred to Children's Social Care in order that relevant enquiries can be carried out and the child effectively safeguarded in accordance with the SSCB Child Protection Procedures. The first responsibility is to ensure that the child is safe while further enquiries are carried out.

6.2 It is crucial that in relation to a disabled child or young person the enquiries are planned and carried out in a way which is informed by an understanding of their impairment.

6.3 Where an investigation is being planned as a result of concerns about significant harm to a disabled child or young person, an early strategy discussion should be held involving key professionals who know them. Specific considerations for the strategy discussion or meeting include:

- The child/young person's preferred communication method for understanding and expressing themselves
- Who should interview the child/young person?
- Whether someone with a specialist on the child/young person's preferred communication method should be involved
- Whether the interview will have to be significantly adapted to support the child/young person understands and their involvement
- The venue of the interview • whether additional facilities or equipment is necessary
- The care needs of the child or young person
- The caring network surrounding the child or young person
- Available medical information about health needs which may have a bearing on an investigation
- If there is a need for a medical examination, consider the most appropriate medical professional, venue, timing and the child/young person's ability to understand the purpose of the medical.

6.4 It is important that efforts to meet these requirements do not unduly slow down the enquiry.

6.5 In situations where there are allegations against an employee or volunteer in that relation to the child, see the SSCB child protection procedures sections in chapter 7

6.6 Agencies must not make decisions about the enquiries based on assumptions about the ability of a disabled child or young person to give credible evidence, or to withstand the rigours of the Achieving Best Evidence Practice Guidance.

6.7 Where an Initial Child Protection Conference is held it is crucial that professionals who know the child or young person and who have information about the nature of their disability are involved.

6.8 In addition efforts must be made to ensure that the child/young person's views are shared with the meeting. .

6.9 Following the child protection investigation, a child/young person and their family should be provided with ongoing support where this is appropriate.

Chapter 7

Responding to Concerns about Sexual Abuse by a Young Person

7.1 Disabled young people should be supported in the development of their sexuality. This may be harder for disabled young people as they may not have access to opportunities for this to develop appropriately. However, there may be occasions where professionals may become concerned that sexual behaviour between two young people is abusive, exploitative or coercive. In this event it will be useful to seek information

7.2 Where significant harm is indicated as a result of concerns about abuse, Children's Social Care should be notified in order that an assessment can be carried out to ensure that the young people are safeguarded. From other professionals and the young people themselves in order to clarify the nature of their relationship, what was understood about consent and details about the incident.

Chapter 8

Achieving Best Evidence Interviews with children with disabilities

8.1 The Government is committed to improving the protection for vulnerable and intimidated witnesses during the criminal justice process, especially children, including children with disabilities. The guidance defines a child as up to the age of 17 but young people with disabilities are likely to be considered vulnerable adults and be eligible for additional support beyond 17. Not all young people with disabilities will necessarily be vulnerable as witnesses and would not wish to be treated as such. It is, therefore, important that the views of individual witnesses who might fall into this category are taken into account.

8.2 Interviews under Achieving Best Evidence Guidance can only be undertaken by suitably qualified social workers and police officers that have completed the required training and are familiar with “Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses, and using Special Measures”. Chapter 2 gives guidance on interviewing children and paragraphs 202 to 222 gives additional guidance on interviewing children with disabilities. Section 2.96 to 2.101 gives general guidance on the role of intermediaries.

Interviewing children with disabilities

Planning

8.3 There is rarely any reason in principle why children with disabilities should not take part in a video-recorded interview, provided the interview is within the Achieving Best Evidence in Criminal Proceedings Guidance.

8.4 The phrase ‘children with disabilities’ encompasses a wide range of abilities and disabilities. Interviewers need to be aware of differences between potential interviewees in their social, emotional and cognitive development, and in their communication skills, the degree of their understanding and in their particular needs. It will nearly always be necessary to seek specialist advice on what special procedures are appropriate and to consider if the services of an intermediary or an interpreter are required.

8.5 Particular attention will need to be taken to ensure that a safe and accessible environment is created for the child and that the interview suite is adapted to the child’s particular needs. Children with disabilities are likely to have already come to the attention of professionals, as a result of which, information is likely to be available from existing assessments and from workers who know the child well. Such information should enable the interviewing team to make an assessment of the likely impact, if any, of a disability on communication.

Where children have specific communication difficulties, aids such as drawings or photographs may need to be prepared to facilitate questioning. All such aids should be preserved for possible production at court. It is important to find out what impact the child’s disability is likely to have on the communication process, and to adopt a positive approach that focuses on the child’s abilities when trying to find out how they can be helped to communicate. The impact of any medication being taken by the child on the interview, including the most appropriate timing for it, should be taken into account.

8.6 For some children, a number of shorter sessions may be preferable to a single interview. For example, children with learning disabilities often have shorter attention spans, giving rise to a need for regular and frequent breaks. In addition to this, some children with physical or learning disabilities might find communicating to be quite demanding and this is also likely to

heighten the need for breaks and a slow pace, thus lengthening the duration of the interview(s).

8.7 The child needs to be given an opportunity to explain their world, especially where this might be unusual and relevant for the interview (e.g. if the child stays away from their family, if there are different adults involved with their care at home or elsewhere, if the child needs intimate care or other 'unusual' help in day-to-day life). If for example, a child with disabilities has a number of adults involved in their care, it will be important to demonstrate their ability to distinguish reliably between these different people. Alternatively, if a child needs very invasive care procedures (e.g. intermittent catheterization) it will be helpful to establish the child's comprehension of this as a process before any discussion of possible sexual abuse ensues.

8.8 The experience of some children with disabilities might make them more compliant and eager to please or to see themselves as devalued. Some children with learning disabilities could have problems understanding the concept of truth, and interpreted communication may lead to additional confusion. Some children may need explicit permission to refute adult suggestions. Even with this permission, some children may find this impossible to do. It can help if everyone in the room makes a commitment to tell the truth.

Special Measures

8.9 The following special measures are available to vulnerable witnesses, including children, with disabilities with the agreement of the court.

- Screens to shield the witness from the defendant
- A live link which enables a witness to give evidence from outside the court through a televised link to the court.
- Evidence given in private including the exclusion of members of the public or press (except one named person to represent the press)
- Removal of wigs and gowns by judge and barristers.
- A video recorded interview with the vulnerable witness prior to the trial may be admitted as the witness's evidence-in-chief and video recorded cross-examination may also be available.
- Examination of the witness through an intermediary who may be appointed by the court to assist the witness to give their evidence at court.
- Aids to communication will be permitted to enable the witness to give best evidence through a communicator or interpreter, or through a communication aid or technique, provided that the communication can be independently verified and understood by the court.

Intermediaries

8.10 The information provided here is intended to summarise the role of the intermediary and general principles that need to be considered in criminal investigations. Detailed procedural guidance and a case checklist can be found in the "Intermediary Procedural Guidance Manual" (Office for Criminal Justice Reform, 2005). While the services of an intermediary are likely to be particularly helpful where the child is very young, is traumatised or uses a specialised system of communication, it is important to note that an intermediary may be able to help improve the quality of evidence of a child of any age who is unable to detect and cope with misunderstanding or to clearly express their answers to questions, especially in the context of an interview or while giving evidence in court.

8.11 An Intermediary Registration Board (IRB) has been established by the Office for Criminal Justice Reform (OCJR). The IRB oversees registration of intermediaries and their standards. Registered Intermediaries are accredited by the IRB and the OCJR following a selection and

training process assessed against a set of core competencies required for the intermediary role. Details of how to access the intermediary register are set out in the “Intermediary Procedural Guidance Manual (Office for Criminal Justice Reform, 2005).

8.12 Intermediaries can assist during the planning phase of an interview by providing advice on how questions should be asked and then to intervene during the interview where miscommunication is likely by assisting the interviewer to rephrase the question or by repeating the witness’s answers where they might otherwise be inaudible or unclear on the recording. The extent to which the intermediary is actively involved in the communication of questions and answers will vary from witness to witness depending on the witness’s particular needs and communication style. It is very important to remember that the intermediary is there only to assist communication and understanding – they are not allowed to take on the function of investigator.

8.13 Before an intermediary can assist with communication they need to conduct one or more assessment meetings with the witness. The criminal case is not discussed during assessment meetings. These meetings enable the intermediary to consider the witness’s communication needs and devise strategies and recommendations for how to maximize understanding. The meetings also enable the intermediary to build the necessary rapport with the witness and to determine whether they (the intermediary) are the right person to act as an intermediary for that witness. The intermediary should be provided with information that is relevant to their role and will help them to maximise communication/ understanding (e.g. the specific vocabulary used by the witness and relevant relationships).

8.14 Registered Intermediaries should be used. The use of an unregistered person as an intermediary can only be considered once the options for using a Registered Intermediary have been exhausted. When this is the case, an unregistered intermediary has the same responsibility to the court. They must be independent of the case being investigated (i.e. not witnesses or suspects). There is a preference for unregistered intermediaries to be professional people rather than family members, friends or associates. In the event that the particular circumstances of the case are such that it appears that only a nonprofessional person can perform the function of an intermediary, it is important that the witness is assessed by a Registered Intermediary before proceeding in order to confirm that the role can only be performed by the non-professional. A briefing pack to be used by unregistered intermediaries setting out the role of an intermediary is available from the OCJR.

Remember that when a child with disabilities is considered for interview under Achieving Best Evidence it is important that early discussion takes place with the child and those who know the child as to how this will proceed, in order to maximize the possibility of the child or young person being given the same opportunity as any child or young person to have redress to the criminal justice system.

For further information and current contact numbers please refer to the following website

www.surreycc.gov.uk/safeguarding