

GUIDANCE FOR PRACTITIONERS

SAFEGUARDING CHILDREN WITH LEARNING DISABILITY / DIFFICULTY

1.0 Purpose

1.1 This guidance has been developed to fulfil a serious case review¹ recommendation, to support practitioners to consider whether a child has a learning difficulty or disability that affects their cognitive ability to be able to make safe decisions, which in the context of safeguarding could place them at an increased risk of abuse or neglect.

2.0 Scope

2.1 This guidance is relevant to anyone who works with children, young people and young adults and may include health organisations, education (early years, schools and colleges), voluntary sector organisations, children and adults services, youth offending teams and parents/carers (this list is not exhaustive).

2.2 This guidance applies to children, young people and young adults aged 0-25 years who have access to universal services and those who may be in receipt of specialist services such as mental health services and social care, this could include children in need, those subject to a protection plan, looked after children and those involved with adult social care.

3.0 Definitions

3.1 Learning difficulties: Schools and education professionals may use the phrase learning difficulties to describe children who learn at a slower pace than their peers, even with appropriate differentiation. In education, learning difficulties are not seen as fixed but can vary according to environment, teaching methods, and social and emotional factors. Learning difficulties cover a wide range of needs, including specific learning difficulties (such as Dyslexia and Dyscalculia and Dyspraxia which may not affect intellect), moderate learning difficulties, severe learning difficulties and profound and multiple learning difficulties.

3.2 Learning disability: The Disability Act of 2010 states that you have a disability if you have a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on your ability to do normal daily activities (long term means 12 months or more).

A learning disability is defined as:

- Significant impairment of intellectual functioning (usually taken as an IQ of below 70)

¹ Joint SCR

- Significant impairment of adaptive / social functioning
- Age of onset before adulthood

These can further be considered as;

- a significantly reduced ability to understand new or complex information, to learn new skills (impaired intelligence), with;
- a reduced ability to cope independently (impaired social functioning);
- which started before adulthood, with a lasting effect on development

3.3 Although many definitions of a learning disability require an IQ² of lower than 70, this does not reflect the individuals social, medical, educational and personal situation, nor what help and support they may need (Burke et al 2019).

Table 1. Learning disability spectrum

Level	Mild	Moderate	Severe & Profound
Description	<p>Able to mix well with others.</p> <p>Able to cope with most everyday tasks.</p> <p>May need additional support for specific tasks (e.g. forms,</p>	<p>Will need more care and support depending on their individual needs.</p>	<p>Will need more care and support with areas such as mobility, personal care and communication depending on individual needs.</p>

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	<p>managing their money etc).</p> <p>IQ likely to be around 50-70.</p>	<p>IQ likely to be around 35-50.</p>	<p>IQ for those with severe learning disabilities likely to be around 20-35, and those with profound learning disabilities under 20.</p>
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(based on information from BILD, 2011 cited in Burke et al 2019)

4.0 Statutory guidance for special educational needs and disabilities (SEND)

4.1 In 2015 the SEND Code of Practice was implemented. It provides statutory guidance on duties, policies and procedures relating to Part 3 of the Children and Families Act and associated regulations which apply in England for organisations

that work with and support children and young people who have special educational needs or disabilities. For more information follow link here:

[SEND Code of Practice January 2015.pdf](#)

5.0 Factors to be considered in the context of a learning disability and safeguarding:

5.1 There is the need for timely recognition by practitioners of potential victims who may lack capacity, and acknowledgment that the learning disability can have an impact on their capacity to make decisions, therefore children and adults with special needs may be at increased risk of exploitation and abuse. Some children will not have been formally assessed as having a learning disability while in an educational setting, even if they have been recognised as having special educational needs due to impairment relating to communication and interaction, cognition and learning, social, emotional and mental health difficulties and sensory /physical issues. The review identified children and young people who Children's Social Care considered in the context of exploitation to have undiagnosed (or unrecognised) capacity issues, but in whom this vulnerability has not been identified previously but other agencies who had been working with them. Additionally, the author reported *"It is therefore not unusual that even though an adult may be assessed as having a severe learning disability, there will not have been and need not have had a cognitive assessment during childhood. Therefore, no assumptions should be made about cognitive impairment and in safeguarding processes appropriate assessments always need to be considered"* (Spicer 2018, p.119).

5.2 Common areas identified by practitioners when they are dealing with children and young people are that they may be particularly vulnerable because of their disability or learning difficulty; However, practitioners struggle to know what the difference is and what the implications are when considering the current and future needs of vulnerable children and young people. Furthermore, the fact that a child may have a diagnosis of a learning disability is not frequently considered in terms of their ability to consent to wider issues affecting their social functioning specifically relating to risk.

5.3 People of all ages may be vulnerable to a range of abusive situations including exploitation (e.g. sexual, criminal, and financial). It is the vulnerability (whether that be age, disability, illness, poor life experiences, previous victims of abuse, or isolation) of the alleged victim that is important, not just their age. Boys and men are just as likely to be targeted as victims of exploitation by perpetrators.

5.4 Young people and adults are groomed and exploited in many different forms, e.g. online, street, gangs, leisure industry, religion, position of authority, celebrities, and perpetrators may work together in groups or alone. The common theme in all cases is the imbalance of power and the control exerted on the victims.

5.5 A study by Emerson and Hatton (2007) identified that children with learning disabilities were 1.5 - 2 times more likely to be exposed to social and environmental risk factors such as poverty, bullying and poor family functioning and it is important to address these modifiable factors to reduce any impact this may have on the child / young person.

6.0 Agency response to learning difficulty / disability and the relevance of safeguarding judgments and services

6.1 Where a practitioner has concerns about a child's learning and development it is important this is identified as soon as possible to allow for early assessment and intervention. Children with more complex developmental and sensory needs may be identified at birth and will be monitored under the care of a paediatrician and assessments will be ongoing throughout the child's life and continue into adulthood.

6.2 Health assessments, such as the universal new-born hearing screening test, enable very early identification of a range of medical and physical difficulties. Health services, including paediatricians, the family's GP, and health visitors, should work with the family to support them to understand their child's needs and help them to access early support. Children's developmental milestones will continue to be checked as part of the universal Healthy Child Programme. Where there are significant emerging concerns (or identified SEN or disability) practitioners should develop a targeted plan to support the child and an early help referral should be considered with parental consent to enable effective information sharing.

6.3 It is important to assess the level of stimulation and interaction the child is receiving in the home environment as this can significantly impact on their cognitive development, resulting in physical, socially and emotional delay. Where the practitioner identifies safeguarding issues such as possible neglect then appropriate referrals need to be made to children's social care.

6.4 ICB, NHS Trusts and NHS Foundation Trusts must inform the appropriate local authority if they identify a child under compulsory school age as having, or probably having, SEN or a disability (Section 23 of the Children and Families Act 2014 cited in DfE & DH 2015).

6.5 Anyone can bring a child or young person who they believe has or probably has SEN or a disability to the attention of a local authority (Section 24 of the Children and Families Act 2014) and parents, early years' providers, schools and colleges have an important role in doing so. Early years practitioners, usually the child's key person in an early years setting, remain responsible for working with the child daily. Where special educational needs are identified the key worker should receive support from the Special Educational Needs Coordinator (SENCO), who should oversee the implementation of the interventions or programmes agreed as part of SEN support (DfE & DH 2015).

6.6 Where a child continues to make less than expected progress, despite evidence-based support and interventions that are matched to the child's area of need, practitioners should consider involving appropriate specialists, for example, speech and language therapists, Portage workers and educational psychologists, who may be able to identify effective strategies, equipment, programmes or other interventions to enable the child to make progress towards the desired learning and development outcomes. The decision to involve specialists should be taken with the child's parents' consent.

6.7 All schools should have a clear approach to identifying and responding to SEN and should consider evidence that a pupil may have a disability under the Equality Act 2010 and, if so, what reasonable adjustments may need to be made for them.

6.8 Schools should work closely with the local authority and other providers to agree the range of local services and clear arrangements for making appropriate requests. This might include schools commissioning specialist services directly. Such specialist services include, but are not limited to:

- Educational Psychologists
- Child and Adolescent Mental Health Services (CAMHS)
- Specialist teachers or support services, including specialist teachers with a mandatory qualification for children with hearing and vision impairment, including multi-sensory impairment, and for those with a physical disability (DfE & DH 2015)

6.9 Some children will be identified as having SEN at an early age, whereas for other children and young people difficulties become evident only as they develop. Practitioners working with children and young people should be alert to emerging difficulties and respond at the earliest opportunity. It should not be assumed that attainment in line with chronological age means that there is no learning difficulty or disability. Some learning difficulties and disabilities occur across the range of cognitive ability and, left unaddressed may lead to frustration, which may manifest itself as disaffection, emotional or behavioural difficulties. Where children begin to display challenging behaviours, which may lead to temporary or permanent exclusions this can place them at an increased risk of abuse and exploitation. Children with learning disabilities find it difficult to form relationships, have fewer friends and feel lonelier than non-disabled children (Burke et al 2019)- this could make them a target for perpetrators of abuse and exploitation.

6.10 Persistent disruptive or withdrawn behaviours do not necessarily mean that a child or young person has SEN as these could be due to wider mental health issues such as bullying or bereavement. Where there are concerns, there should be an assessment to determine whether there are any causal factors such as undiagnosed learning difficulties /disabilities, communication or mental health issues. If it is thought housing, family or other domestic circumstances may be contributing to the presenting behaviour a multi-agency approach, supported using approaches such as the Early Help Assessment, may be appropriate. (DfE & DH 2015, p.96).

6.11 Where a child is open to Children's Social Care due to safeguarding concerns which may, depending on the level of risk, be under the auspices of early help, child in need, child protection or a looked after child, the team around the child/family must consider whether the individual has any learning difficulties/disabilities which could impact on their ability and capacity to consent to wider issues affecting their social functioning, specifically relating to placing themselves at risk.

6.12 Where there are concerns that there may be an underlying learning difficulty/disability then these should be discussed with the child and family/carers and appropriate referrals made.

6.13 The relevance for children being diagnosed as having a disability is considered in terms of meeting the criteria and is highly significant to them being eligible as an adult to access a range of provision including financial and ongoing support to services. Even young people with a mild disability are considered to have a reduced intellectual ability and have difficulty with everyday activities – for example household tasks, socialising or managing money – which affects someone for their whole life. An additional safeguard is that as a result of a young person having a diagnosis of a learning disability, GPs will offer an annual health care check from 14 years of age which will support identifying and addressing potential unmet health needs and those who require ongoing support.

6.14 Transitioning from child to adult services is difficult for any young person particularly where they have a learning difficulty or disability. They may also be transitioning from multiple services such as education, mental health services and social care, and it is essential that robust plans, developed and agreed with the young person provide a seamless and safe transfer.

Appendix 1

DSM-5 Criterion for the diagnosis of intellectual disability from the Diagnostic and Statistical Manual of Mental Disorders (DSM-5, APA 2013).

Severity is assessed across three domains, a summary of the diagnostic criteria for each domain are as follows:

1. Deficits in intellectual functioning
2. Deficits or impairments in adaptive functioning
3. Deficits in intellectual and adaptive functioning were present during the developmental period.

Deficits in intellectual functioning

This includes various mental abilities:

- Reasoning
- Problem solving
- Planning
- Abstract thinking
- Judgment
- Academic learning (ability to learn in school via traditional teaching methods)
- Experiential learning (the ability to learn through experience, trial and error, and observation)

These mental abilities are measured by IQ tests. A score of approximately two standard deviations below average represents a significant cognitive deficit. This is typically an IQ score of 70 or below.

Deficits or impairments in adaptive functioning

This includes skills needed to live in an independent and responsible manner. Limited abilities in these life skills make it difficult to achieve age appropriate standards of behaviour. Without these skills, a person needs additional supports to succeed at school, work, or independent life.

Various skills are needed for daily living:

- **Communication:** This refers to the ability to convey information from one person to another. Communication is conveyed through words and actions. It involves the ability to understand others, and to express oneself through words or actions.
- **Social skills:** This refers to the ability to interact effectively with others. We usually take social skills for granted. However, these skills are critical for success in life. These skills include the ability to understand and comply with social rules, customs, and standards of public behaviour. This intricate function requires the ability to process figurative language and detect unspoken cues such as body language.
- **Personal independence at home or in community settings:** This refers to the ability to take care of oneself. Some examples are bathing, dressing, and feeding. It also includes the ability to safely complete day-to-day tasks without guidance. Some examples are cooking, cleaning, and laundry. There are also routine activities performed in the community. This includes shopping for groceries and accessing public transportation.
- **School or work functioning:** This refers to the ability to conform to the social standards at work or school. It includes the ability to learn new knowledge, skills, and abilities. Furthermore, people must apply this information in a practical, adaptive manner; without excessive direction or guidance.

Learning Difficulties

Schools and education professionals tend to use the phrase learning difficulties to describe children who learn at a slower pace than their peers, even with appropriate differentiation. In education, learning difficulties are not seen as fixed but can vary according to environment, teaching methods, and social and emotional factors. Learning difficulties cover a wide range of needs, including specific learning difficulties (such as Dyslexia and Dyscalculia and Dyspraxia which may not affect intellect), moderate learning difficulties, severe learning difficulties and profound and multiple learning difficulties.

Special Educational Needs and Disabilities (SEND)

In 2014 the SEND Code of Practice was implemented. It provides statutory guidance on duties, policies and procedures relating to Part 3 of the Children and Families Act and associated regulations which apply in England.

The regulations are:

- The Special Educational Needs and Disability Regulations 2014
- The Special Educational Needs (Personal Budgets and Direct Payments) Regulations
- The Special Educational Needs and Disability (Detained Persons) Regulations 2014
- The order setting out transitional arrangements

It includes guidance relating to disabled children and young people as well as those with Special Educational Need (SEN). The code provided additional supportive requirements; where a disabled child or young person requires special educational provision, they will also be covered by the SEN definition.

Special Educational Needs refers to:

A child of compulsory school age or a young person with a learning difficulty or disability if he or she:

- Has a significantly greater difficulty in learning than most others of the same age,
- or
- Has a disability which prevents or hinders him or her from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions

Education Health and Care Plans were introduced in 2014. The child should be assessed individually recognizing that each child will have different needs and react differently to their different conditions; therefore, each EHCP should be unique and heavily focused on the individual personality and requirements of each child. There is a greater focus on support. A component of the EHCP is information relating to the child's health; e.g. the needs of a child with type 1 diabetes need to be considered in the school environment, including management of insulin injections, regulated dietary needs and response to physical episodes where their diabetes is not adequately controlled.

Many children in education with special educational needs are supported through the resources available to all schools at the SEN Support level of the

Code of Practice and will not need an EHCP. Again, their learning plan will be tailored to their individual educational need.

References:

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