

# *Section 1*

## *Core Principles and the Broader Context*

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# Key Points

This section:

- ❑ Sets out the legal framework underpinning work with children to promote their welfare and prevent abuse
  
- ❑ Introduces the concept of the assessment framework, a way of looking at children's needs across three inter-related domains:
  - the child's developmental needs
  - the capacity of parents/carers to respond appropriately to those needs, including both the strengths and any shortfalls
  - the impact of the wider family and environmental factors on both the parenting capacity and the child's development

These domains are subdivided into a number of dimensions. The Assessment Framework gives agencies working with children a common language to understand both the needs of children and what is happening to a child

- ❑ Gives guidance on inclusive practice
  
- ❑ Provides guidance on consent, confidentiality and information sharing. This states that normally consent should be obtained to share any personal information. However, information should be shared where anyone has a well founded concern that disclosure is necessary to safeguard a particular child or children in general.

# Chapter 1 Legal Framework

- 1.1 This chapter sets out the statutory context that underpins the roles of professionals in working together to protect, safeguard and promote the welfare of children.
- 1.2 Inter-agency responsibilities for safeguarding and promoting children's welfare and protecting them from abuse and neglect are underpinned by:
- the provisions of the Children Act 1989
  - guidance issued by the Secretary of State under section 7, Local Authority Social Services Act 1970
  - the criminal law
  - principles of good practice encouraged by legislation of more general application.
- 1.3 The Children Act places the statutory duty to enquire and act in relation to vulnerable children with one agency within an administrative area – the local social services authority. Powers are given to that agency to require the co-operation and assistance from other agencies in carrying out these important functions. The Act and the accompanying guidance makes it clear that safeguarding and promoting the welfare of children are two sides of the same coin.

## Primary Statutory Duties – Parts III, IV and V Children Act 1989

### Section 47 Child Protection Enquiries

- 1.4 This section requires social services to carry out enquiries, or arrange for them to be carried out on their behalf, if a child in their area:
- is subject to an emergency protection order
  - is in police protection
  - is in breach of a curfew notice
  - whom they have reasonable cause to suspect is suffering, or likely to suffer, significant harm.

- 1.5 The enquiries should not focus solely on concerns of significant harm. They must establish whether the local authority should take any action to safeguard and promote the welfare of the child. They should also establish whether the authority should make any application to the court, exercise any other Children Act powers or apply for a child safety order under section 11 of the Crime and Disorder Act 1998.
- 1.6 The remaining provisions of section 47 and Part V of the Act provide a framework of duties and powers to enable the local authority to carry out this and related statutory duties effectively. This duty cannot be met without access to information and expertise held by other agencies.
- 1.7 **Section 47 (9)** allows the local authority to call upon agencies listed in section 47 (11) to assist them with the conduct of enquiries. Those agencies have a duty to assist, unless it would be unreasonable in all the circumstances of the case. The assistance may include information and advice. For example, there may be a request to facilitate the local authority to meet its statutory duty to obtain access to a child who is the subject of enquiries under the section (section 47 (4)).
- 1.8 From time to time amending legislation revises the list to take account of changes in agency structures. The statutory list is currently:
- any local authority
  - any local education authority
  - any local housing authority
  - any health authority or any special health authority
  - any national health service trust
  - any primary health care trust.

The Secretary of State has a power to add to this list and in 1993 by order added head teachers of grant maintained schools and any teacher in charge of a city technology college.

Although not included within the section, the Probation Service is required to co-operate with the local authority by virtue of Home Office Circulars and there is an assumption that 'the police will always do what is necessary to assist' regarding children's welfare (Home Office Circular 54/91).

Voluntary sector agencies can be required to play an appropriate role through the terms and conditions of any contracts or grant provision.

Judgements as to the action that might be necessary should take into account the range of provisions of the public law and those provisions of the private family law that are concerned with the protection of the vulnerable.

## **Emergency Action**

- 1.9 Police constables have the power to remove a child to suitable accommodation and keep him or her there, or ensure that a child is not removed from a hospital or other place, if they are satisfied that the child would otherwise suffer significant harm. Such a child is referred to having been taken into **police protection** (Children Act, Section 46).
- 1.10 A court may on the application of any person make an **emergency protection order** with respect to a child:
- if satisfied that there is reasonable cause to believe that the child is likely to suffer significant harm if not removed to accommodation of the applicant or if he does not remain in the place in which he is accommodated, or
  - enquiries under section 47 are being frustrated by access to the child being unreasonably refused and access is required urgently (Children Act Section 44).
- 1.11 Social work staff usually makes applications for emergency protection orders. The effect of the order is to give parental responsibility of the child to the applicant, subject to directions of the court. It operates as a direction to anyone who is in a position to do so to comply with a request to produce the child.

## **Section 17 - Children in Need**

- 1.12 Section 17 of the Children Act places a statutory duty on local authorities to safeguard and promote the welfare of children in need of services within their area and so far as it is consistent with that duty to promote their upbringing by their families. Some children may have health and developmental needs and some may in addition be in need of protection. A child is in need if:
- s/he is unlikely to achieve or maintain or have the opportunity of achieving or maintaining a reasonable standard of health or development without the provision for him/her of services by a local authority
  - her/his health or development is likely to be significantly impaired or further impaired, without the provision for her/his of such services; or
  - s/he is disabled.

- 1.13 Health includes both physical and mental health. Development includes physical, emotional, intellectual, social and behavioural development. More detailed guidance on what constitutes a child 'in need' is given in section 3, chapter 3.
- 1.14 Part III and Schedule 2 of the Act set out provisions designed to assist local authorities carry out this responsibility. **Section 27** allows local authorities to request the help of other agencies in carrying out their functions under this part of the Act. If so requested, an agency must comply with the request if it is compatible with their statutory or other duties and obligations and does not unduly prejudice the discharge of any of their functions.
- 1.15 The agencies required to assist are those required to help in relation to section 47 enquiries set out in paragraph 1.8 above. Help required under this section may be in relation to an individual case or on a strategic basis.
- 1.16 Assessing and meeting the needs of children in need and their families under this legislation may be carried out at the same time as assessments under other legislation. These may be concerned with the needs of disabled children and those who care for them.

#### **Local Authority Social Services Act 1970 Section 7**

- 1.17 The Secretary of State for Health and Social Services has the power under section 7 of the 1970 Act to issue guidance to local authorities on how they shall exercise their social services functions. Local authorities have a duty to follow this guidance unless there are exceptional local reasons justifying departure.
- 1.18 The principal documents concerned with inter-agency co-operation in meeting the needs of vulnerable children are published by the Department of Health, the Home Office and the Department of Education and Employment. They include Working Together to Safeguard Children 1999 and the Framework for the Assessment of Children in Need and their Families 2000. These have been issued by the Secretary of State under Section 7.
- 1.19 Further guidance supplementing section 7 guidance may be issued as addenda or as separate documents. These documents have the same status and include 'Safeguarding children involved in prostitution' (DH 2000).

1.20 Local authorities have a responsibility to make sure that the provisions of these documents work effectively, that the inter-agency and multi-agency expectations are met and their functions are carried out to achieve these objectives. In particular, they have a duty to ensure that an Area Child Protection Committee is established and to be the lead agency in ensuring its effective working. This is achieved by local authorities requesting the assistance of other agencies under section 27.

1.21 Local authorities require among other things that the agencies listed in section 27 shall:

- apply the guidance
- involve themselves in Children's Services Planning, in the work of the ACPC and the development of procedures and protocols
- ensure their staff are trained and follow procedures
- provide necessary services.

Through this process agencies are expected to ensure that the services agreed at a strategic level are delivered through their staff. For example, purchasers and providers in the NHS are expected to ensure that guidance published in an addendum to section 7 guidance in 1995 is followed and 'comprehensive service specifications for services for children, of which child protection is a key component' are drawn up (paragraph 2.25 Child Protection: Clarification of Arrangements between the NHS and other Agencies 1995).

### **Care Proceedings – section 31 Children Act 1989**

1.22 The local authority and others authorised so to do, currently only the NSPCC, may apply to the courts for orders by which a child is looked after by the local authority (care order) or placed under the supervision of a local authority (supervision order).

1.23 The court must be satisfied that the threshold set out in section 31 of the Act is met and must have regard to criteria set out in the welfare checklist in section 1. Before making an order the Court must be satisfied about the future arrangements for the child's care.

1.24 The courts should have all the available information and expertise in making decisions in these matters. The local authority will require assistance from other agencies under section 27 in promoting these proceedings and in planning effectively for the child's future.

1.25 A Guardian ad Litem will be appointed by the court to represent the child's interests within the proceedings. It is important that agencies ensure that their enquiries are assisted so that appropriate recommendations are made to the court.

## **Parental Responsibility**

1.26 The concept of **parental responsibility** was introduced by the Children Act 1989 and means all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and her/his property, (Section 3(1)). Parental responsibility is to be exercised in the interests of, and to promote the welfare of, a child.

1.27 The responsibility to determine issues on behalf of a child will diminish as a child acquires the ability through increasing age and understanding to make decisions concerning his/her own welfare. This ability may be affected by disability or development disorder. Professionals delivering services should assess the child's ability in this respect and it may differ according to the matter at issue.

1.28 If a child lacks capacity to decide a particular issue, persons with parental responsibility have the obligation to decide the issue on the child's behalf. It is important for professional staff to be familiar with the identity of persons with parental responsibility for a particular child.

1.29 Parental responsibility may be held by more than one person and each may exercise the responsibility independently of others.

1.30 Mothers and fathers who are married to a child's mother have parental responsibility. Unmarried fathers may only acquire parental responsibility by formal agreement with the mother or by court order. Other adults may also acquire parental responsibility by court order.

1.31 When a court makes a care order, the local authority acquires parental responsibility and the power to determine the extent to which parents with parental responsibility may exercise it. It is important that professionals concerned with the family are aware of the decisions made on this matter by the local authority.

## Human Rights

- 1.32 The **Human Rights Act 1998** was implemented for most purposes with effect from 2 October 2000. From this date it is unlawful for public authorities to carry out their functions incompatibly with the European Convention for Human Rights and Fundamental Freedoms. The relevant provisions are set out in the First Schedule to the Act.
- 1.33 The Act does not create new statutory functions; it does determine how existing functions should be exercised. In particular, consideration of the Convention Rights should not inhibit action necessary for the protection of vulnerable children. They should be seen as encouragement for good standards of practice, 'the expectation is that best practice in the services already respects the Convention' (LAC (2000) 17).
- 1.34 Working Together to Safeguard Children 1999 and the Framework for the Assessment of Children in Need and their Families 2000 were written taking account of the Convention. Application of the processes and expectations within those documents will therefore reflect the principles of the Convention.
- 1.35 Everyone, in particular the vulnerable, is entitled to the protection of the Convention Rights and the Court of Appeal has in a recent case emphasised the focus of Article 8 which requires respect for private and family life and home and correspondence:

'The family life for which article 8 requires respect is not a proprietary right vested in either parent or child: it is as much an interest of society as of individual family members, and its principal purpose, at least where there are children, must be the safety and welfare of the child.

It needs to be remembered that the tabulated right is not to family life as such but to respect for it. The purpose.....is to assure within proper limits the entitlement of individuals to the benefit of what is benign and positive in family life.

It is not to allow other individuals, however closely related and well intentioned, to create or perpetuate situations which jeopardise their welfare'.

## **Criminal Law**

1.36 Many criminal offences exist in order to promote the protection and safeguarding of children and their welfare. It is the responsibility of the police to investigate alleged offences and to be concerned with measures designed to prevent offences being committed.

1.37 It is in the public interest for other agencies to co-operate with the police in the performance of these responsibilities.

# Chapter 2 The Assessment Framework

## Core Principles

2.1 The Assessment Framework gives us a common language to understand what is happening to a child. An assessment provides the basis for:

- identifying children's needs and strengths
- making decisions about services to be provided and priorities across all statutory and voluntary agencies working with children and families.

2.2 Assessments should :

- **be child centred** - the child remains the central focus throughout the assessment
- **be rooted in child development** – professionals undertaking assessments of children must have a thorough working knowledge of child development that informs the assessment. Professionals need to be aware of the consequences of variations in development for children of different ages. Timing is critical, as children may not be getting what they need at crucial stages of their development. Some of these children will have particular difficulties through a learning difficulty, disability or medical condition
- **be ecologically based** – placing the child in the context of his or her family, wider community and culture. Research shows that environmental factors impact on children's development and can affect parents' capacity to provide good parenting
- **ensure equality** – understanding and working sensitively with diversity to identify the particular issues for a child. Discrimination of all kinds is an everyday reality in many children's lives, so every effort should be made to make sure that our responses do not reflect or reinforce that experience and seek to counteract it
- **involve working in partnership with children and their families** – most parents want to do their best for their children. Much research has underlined the importance of partnership with parents to safeguard children. Developing a positive working relationship is critical, so that parents (or carers) feel respected and informed. Partnership has to be based on honesty – professional have a vital role to play by being open and honest

- **build on strengths as well as identifying difficulties** – it is important to recognise and build on strengths in a child’s situation as well as identifying needs and deficits
- **be delivered on an inter-agency basis** – interagency work is crucial to promoting the welfare of children. Most vulnerable children and children in need will require services from more than one agency. Agencies have important knowledge about a child, which is invaluable in any assessment
- **be provided as an ongoing process** – assessment starts at the beginning of involvement with a child, but this will continue throughout the work with the child. The effects of changes of the child’s situation and the effect of service provision have to be assessed and decisions taken about further service provision
- **be carried out in parallel with action and service provision** – the process of assessment can promote the child’s welfare in itself. Services should be provided according to the needs of the child in parallel with the assessment and not await the completion of the assessment
- **be grounded in evidence-based knowledge** – practice must be based in up to date knowledge, based on research and practice. Practitioners should learn from service users, as well as evaluating interventions and outcomes.

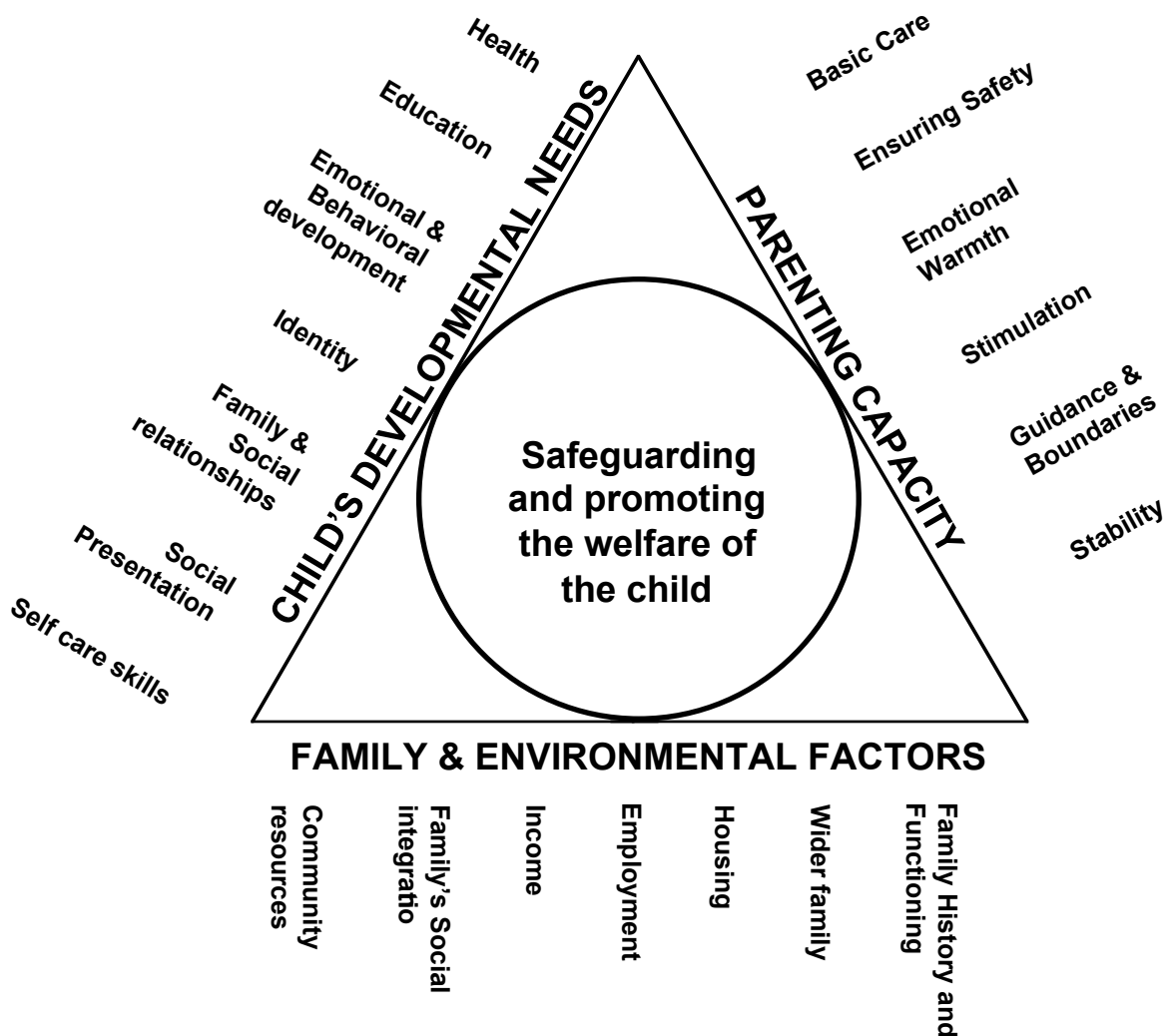
## The Assessment Domains

2.3 Assessing the needs of a child requires a systematic and purposeful approach. This involves using the framework to gather and analyse relevant information within three domains:

- developmental needs of the child
- parental capacity (or caregiver capacity) to meet the child's needs
- impact of the wider family any environmental factors on both parenting capacity and the child's development.

2.4 These three inter-related domains are illustrated in Figure 1. Each domain has a number of dimensions.

Figure 1: The Assessment Triangle



## 2.5 Child's development needs dimensions:

- **Health** – including growth and development as well as physical and mental well being. The impact of genetic factors and of any impairment should be considered. This dimension involves receiving appropriate health care when ill, an adequate and nutritious diet, exercise, and immunisations where appropriate and developmental checks, dental and optical care. For older children it involves appropriate advice and information on issues such as sex education and substance misuse
- **Education** – covers all areas of the child's cognitive development from birth. It includes all opportunities for development including play, interaction with other children, access to books and out of school activities. Through these experiences children will gain a range of skills and interests and experience success and achievement
- **Emotional & Behavioural Development** – including the appropriateness of responses to others demonstrated in feelings and actions, responses to change and degree of appropriate self control. It includes the nature and quality of early attachments and characteristics of temperament
- **Identity** – the child's sense of self as a separate valued person. It includes the child's view of self and abilities, self image and self esteem and having a positive sense of individuality. Race, gender, religion, age, sexuality and disability may all contribute to this. Feelings of belonging and acceptance by family, peer group and wider society, including other cultural groups
- **Family and social relationships** – development of empathy and the capacity to place self in someone else's shoes. It includes age appropriate relationships with parents or caregivers, brothers or sisters, other significant adults and peers as well as the response of family to these relationships
- **Social presentation** – the child's understanding of the way in which appearance, behaviour and any disability are perceived by the outside world. It includes appearance, behaviour and personal hygiene taking into account gender, age and cultural background. It includes the availability of advice from parents or caregivers about presentation in different settings
- **Self care skills** – practical, emotional and communication skills needed for increasing independence. These range from dressing and feeding for young children to independent living skills for young people. It includes encouragement to acquire social problem solving approaches. Special attention should be given to the impact of the social circumstances affecting a child's vulnerabilities or disability on the development of self care skills.

2.6 **Parenting capacity** can be affected by a number of factors including history of abuse, learning disability, personality patterns of the parents as well as poverty and discrimination. The dimensions are:

- **Basic care** – providing for the child’s physical needs and appropriate medical and dental care. It includes the provision of food, drink, warmth, shelter, clean and appropriate clothing and adequate personal hygiene
- **Ensuring safety** – making sure that the child is adequately protected from danger and harm. It includes physical hazards in the home and outside, protection from significant harm through contact with unsafe adult/other children and protection from self harm
- **Emotional warmth** – ensuring that the child’s emotional needs are being met and giving the child a sense of being specially valued, with a positive sense of racial and cultural identity. It includes appropriate physical contact, praise and encouragement, stable secure and affectionate relationships with significant adults who show appropriate sensitivity and responsiveness to the child’s needs
- **Stimulation** – promoting the child’s learning and intellectual development, through encouragement and cognitive stimulation and encouraging and joining in the child’s play, promoting communication by taking and responding to the child and promoting educational, out of school activities and social opportunities. It includes enabling the child to experience success and ensuring school attendance or equivalent opportunities and helping the child to meet the challenges of life
- **Guidance and boundaries** – enabling the child to regulate her or his own emotions and behaviour, development of social problem solving, anger management and consideration for others. The key parental tasks are demonstrating appropriate behaviour and control of emotions and interaction with others and guidance which involves setting boundaries, so that the child can develop an internal model of moral values and conscience and social behaviour. The aim is to enable the child to grow into an autonomous adult, holding their own values and able to demonstrate appropriate behaviour with others, rather than having to be dependent on rules outside themselves. This includes not overprotecting children from exploratory and learning experiences, effective discipline and shaping of behaviour
- **Stability** – providing a sufficiently stable family environment to enable the child to develop and maintain a secure attachment to the primary caregiver(s). It includes making sure that secure attachments are not disrupted, providing consistency of emotional warmth and response to behaviour over time. Parental responses should change and develop according to the child’s developmental progress. Parents should enable children to keep in contact with important family members and significant others.

## 2.7 Family and environmental dimensions:

- **Family history and functioning** – family functioning is influenced by who is living in the household and how they relate to the child, significant changes in the family/household composition, history of childhood experiences of parents, chronology of significant life events and their meaning to family members, nature of family functioning, including sibling relationships and its impact on the child, parental strengths and difficulties including those of an absent parent as well as the relationship between separated parents
- **Wider family** – members of the wider family and social network can be very important and can have positive or negative effects on the child. It includes related and non-related people and absent wider family. Their role and importance to the child and parents should be identified
- **Housing** – suitability of the housing, including accessibility for a child with a disability and the provision of basic amenities and facilities appropriate to the age and development of the child and other resident family members. It includes the interior and exterior of the accommodation and immediate surroundings, sleeping arrangements, cleanliness, hygiene, safety and the impact on the child's upbringing
- **Employment** – patterns of working and the impact on the child, the way in which work, or absence of work, is viewed by family members and the effect on relationships with the child. For young people this includes the child's experience of work and its impact on them
- **Income** – levels of income over a sustained period of time and how this is used and the affect on the child
- **Social integration** – the degree of the family's integration or isolation within the neighbourhood and community and its impact on the child. It includes the degree of integration or isolation with peer groups friendship and social networks and the importance attached to them
- **Community resources** - accessibility of facilities and services in the neighbourhood, including primary health care, day care, schools, places of worship, transport, shops and leisure activities. It includes the availability, accessibility and standard of these resources and the impact on the family, including any disabled members.

2.8 In looking at the needs of a particular child the complex interplay of factors across all three domains should be carefully considered and analysed. The interaction between a number of factors rather than any specific characteristic is likely to lead to parenting difficulties. Most families are able to overcome adversity and provide children with 'good enough' parenting. A small number of families are unable to provide a sufficiently consistent standard of care across the seven child development dimensions.

Ward H (ed.) (1995) Looking After Children: Assessing Outcomes in Child Care

2.9 Further guidance on inter-agency assessment is given in Section 3 chapter 5.

## Chapter 3 Inclusive Practice

- 3.1 When assessing a child's needs, care has to be taken to make sure that fundamental issues shaping children's identity and well being are understood. Ensuring equality of opportunity requires sensitivity to, and understanding of, diversity.
- 3.2 Issues of race, culture, language, religion, sexuality and disability are integral to an holistic assessment process. Stereotyping and assumptions can result in inaccuracy and a lack of balance in analysing children's needs and can undermine efforts to protect children from other forms of significant harm.
- 3.3 The context in which some children are growing up may be one of discrimination, disadvantage and failure to access appropriate services. The experience of racism is likely to affect the responses of the child and family to assessment and enquiry processes. The effects of racism differ for different communities and individuals, and should not be assumed to be uniform. Professionals need to have knowledge and understanding of parental roles within the child's background.
- 3.4 The need for neutral, high quality, gender-appropriate translation or interpretation services should be taken into account when working with children and families whose everyday language is not English.
- 3.5 For children with a disability, particular care has to be taken to build on strengths as well as identifying difficulties. The assessment must consider:
- the impact on the child of his or her impairment
  - any disabling barriers that the child faces
  - how to overcome such barriers.
- 3.6 Many children with a disability have involvement with a number of agencies and professionals. Particular care should be taken to co-ordinate assessments and service provision.
- 3.7 Further advice on the issues of race and culture and of disability in assessing children's needs and ensuring equality of opportunity can be found in 'Assessing Children In Need and their Families: Practice Guidance' (DH 2000).

# Chapter 4 Consent, Confidentiality and Information Sharing

## Principles

- 4.1 In carrying out our statutory obligations we should always strive to work in partnership with children and families.

Family members know more about their own situation than any professional could possibly know.

Family members have the right to know what is being said about them and to contribute to important decisions about their lives and those of their children, unless there are specific reasons why this right is overruled by the child's rights and needs.

Consent issues do not over-ride the duty on professionals and agencies to promote children's welfare or protect them from harm.

## The Law on Confidentiality and Information Sharing

- 4.2 The important statutory duties in relation to vulnerable children cannot be met without effective and appropriate sharing of relevant information, some of which may be regarded as confidential between a practitioner and patient or client. Confidentiality should not be confused with secrecy. Information may be shared in order to comply with a statutory obligation, or if it is in the public interest.

- 4.3 The statutory obligations arising from the Children Act are set out in chapter 1 of this section. It is clearly in the public interest that the legislative framework and government guidance designed to provide services for the most vulnerable children operates effectively.

- 4.4 It is important, however, that disclosure of information takes place according to principles of good practice and on a need to know basis. Those seeking disclosure should be clear about the reasons information is required and the purposes for which it is likely to be used.

4.5 Article 8 of the **European Convention of Human Rights** gives everyone the right to 'respect for his [or her] private and family life'. The Human Rights Act 1998 put the convention into English law. This Act requires public authorities to respect family life. Information about families will normally be kept confidential. Disclosure of information will be through consent or 'in accordance with the law' for:

- public safety
- the protection of disorder or crime
- the protection of health or morals
- for the protection of the rights and freedoms of others.

4.6 The **Data Protection Act 1998** requires that personal information is:

- obtained and used in a lawful way
- only disclosed in appropriate circumstances
- accurate
- relevant
- not held longer than is necessary
- kept securely.

4.7 The Data Protection Act defines consent as:

'freely given specific and informed indication of his or her wishes by which the data subject signifies his agreement to personal data relating to him being processed'.

4.8 The Data Protection Act allows for disclosure of information without consent on the basis of the:

- prevention and detection of crime
- apprehension and prosecution of offenders.

4.9 The Data Protection Act 1998 and the Human Rights Act 1998 encourage the adoption of sound decision making in this area and the need to be able to justify the course adopted. While encouraging good practice, however, their provisions are not intended to inhibit the proper protection and safeguarding of the welfare of the most vulnerable.

4.10 Provisions of the Crime and Disorder Act 1998 encourage effective sharing of material in the interests of reducing crime and disorder and complement the public interest obligation for public agencies to co-operate with the detection and prevention of serious crime.

## **Sharing information with consent**

4.11 Research and experience have repeatedly demonstrated that effective working together is more likely to be achieved on the basis of complete openness and honesty with parents/carers and children. This is likely to improve partnership with parents, promote children's welfare and protect them from harm.

4.12 If appropriate, prior to concerns about a child being shared with another agency or professional, consent should be obtained from:

one parent with parental responsibility

and / or

the young person, if they have the ability to understand choices and their consequences.

4.13 When obtaining consent to disclosing personal information it should be made clear:

- why the information is to be shared (the reasons for disclosure, the purpose of disclosure and the intended outcome)
- which agencies, or named professionals, the information will be shared with
- what information is to be shared.

## **Sharing information without consent**

4.14 Normally parents are happy for information to be shared, as they want to do the best for their children. Similarly young people want the best for themselves. However, if a parent or young person refuses to allow information to be shared the professional will need to decide whether they can lawfully disclose information without consent. In making this judgement the professional will have to weigh up the nature of the concerns for the child and the reasons given for refusing consent.

4.15 In any potential conflict between the responsibilities of professionals towards a child and other family members the needs of the child must always come first. Countless enquires into child deaths have emphasised the importance of good information sharing between professionals about a child's health and development and parental capacity to meet the child's needs. When information from a number of sources has been shared and analysed it can often show that a child is suffering significant harm.

4.16 Information can be disclosed where anyone has a well-founded concern that disclosure is necessary to:

- safeguard a particular child or children in general. This includes disclosure of information about an adult who may pose a risk of significant harm to a child. This is reflected in the General Medical Council guidance on confidentiality (Protecting and Providing Information) and the UKCC Guidelines for professional practice for all nursing, midwifery and health visiting staff
- prevent a criminal act taking place, or would interfere in criminal enquiries
- prevent harm to staff (in effect a possible criminal act against the staff member).

4.17 When considering whether to disclose information without consent professionals need to consider whether seeking consent is likely to place the child at further risk: (See Section 5, Chapter 3.4)

- for some children, even where there are well-founded concerns about the child's need for protection, it is appropriate to seek consent to share information. This will help to develop partnership with parents, so helping to protect the child
- in other circumstances, perhaps because of the urgency of the situation formal consent to share information cannot be obtained. The parents and/or young person should be told that the information has been shared, unless the professional makes a judgement that this will risk further harm to the child
- for some other children it is essential to share information between agencies, but without parental consent, to protect the child or to prevent a crime being committed. This includes allegations where a parent or carer is the alleged perpetrator of a possible criminal offence against the child, including situations where the child may have been subject to sexual abuse.

4.18 If in doubt, advice should be obtained from a designated or named person within the agency and if appropriate legal advice should be sought.

4.19 Personal information that is disclosed without consent should be:

- justifiable – the reasons for disclosing the information should be recorded in case of later challenge
- appropriate and proportionate for the purpose
- to the extent needed to safeguard the child, or prevent a crime.

## **Further Guidance**

4.20 Further guidance about disclosure of personal information can be obtained in:

- agencies own practice guidance
- Working Together to Safeguard Children paragraphs 7.39 to 7.46
- Assessment of Children in Need and their Families - paragraphs 3.46 to 3.57 and Appendix E – ‘Data Protection Registrar’s checklist’
- Guidance on the disclosure of Information about Sex Offenders – Home Office
- Protecting and Providing Information – GMC 2000.