

# Transitional safeguarding - adolescence to adulthood

## Appendix 1

Figure 1

	Children 0-18 years	Adults 18+
Underpinning legislation and policy	<p><i>The Children Act 1989</i> was landmark legislation setting out safeguarding duties in relation to children's welfare and upbringing. Safeguarding duties in the <i>Children Act 2004</i> built on the existing framework.</p> <p><i>The Children and Social Work Act 2017</i> has increased local flexibility and introduced new arrangements for accountability and learning through non-statutory multi-agency safeguarding partnerships (replacing statutory requirements for Local Safeguarding Children's Boards).</p>	<p>In 2001 <i>No Secrets</i> marked a departure from an approach dominated by criminal justice, leading to stronger conceptualisation of safeguarding adults. Incorporation of Making Safeguarding Personal (MSP) into the <i>Care Act 2014</i> marked a turning point and supported the development of practice into an outcome-focused rather than process-driven approach.</p> <p>It placed safeguarding duties on a statutory footing for the first time, and included a requirement for Local Safeguarding Adults Boards (SABs) to facilitate learning and improvement. <i>The Mental Capacity Act 2005</i> brought greater coherence around the key concept of capacity.</p>
Best Interests	<p><b>Children's best interests – paramountcy principle</b></p> <p>Safeguarding duties are framed in relation to promoting children's upbringing and their welfare (rather than wellbeing). Having regard to a child's wishes and best interests is an underpinning principle. However, the role of parents and the familial context frames child safeguarding culture and practice, because children lack capacity to make decisions for themselves (<i>Children Act 1989</i> and <i>Children Act 2004</i>).</p>	<p><b>Individual rights, choice and control</b></p> <p>In contrast, the Making Safeguarding Personal initiative, which has developed an outcome-based approach to adult safeguarding, aims to identify what action needs to be taken to stop or prevent abuse and neglect in the context of an individual's wellbeing.<sup>1</sup> The concept of wellbeing relates to a range of factors, including protection from abuse and neglect and control by the individual over day-to-day life.</p> <p>The adult's framework is based on a conceptualisation of maturity, associated with adult roles and responsibilities and capacity to make decisions relating to a specific time and context (DH, 2017). In the context of deprivation of liberty, if an adult is assessed as not having capacity to make that particular decision at that particular time a Best Interest Assessor will work to ascertain what the Best Interest decision would be.</p> <p>MSP draws on key principles around an individual's rights and freedom of action; choice and control; an individuals' assets and preferred outcomes. A key safeguarding principle is to empower individuals and work with their strengths – there is no comparative principle for children and young people (SCIE, 2015).</p>

<p><b>Constructs of risk</b></p>	<p>A primary driver in children’s safeguarding is protection from harm and removing or mitigating risk (<i>Working Together</i>, 2018). This means that children’s safeguarding is concerned with the reduction of risk and ‘stepping down’ children and families from the eligibility thresholds for children’s social care and/or preventing entrance into the care system.</p>	<p>There is a concept of risk enablement or risk appraisal that takes into account individuals’ preferences, histories, circumstances and lifestyles to achieve a proportionate tolerance of acceptable risks. Importantly, this is different to ‘risk avoidance’ which could be argued to be more characteristic of the children’s safeguarding system.</p>
<p><b>Partnership working</b></p>	<p>Early help, multi-agency partnerships and shared accountability have been common threads in children’s safeguarding policy and legislation.</p> <p>Safeguarding duties apply across the system from early help, universal services and a range of practitioners across health, education, police and the voluntary sector.</p> <p>In recent years, statutory guidance has placed a strong emphasis on joint responsibility for safeguarding, with specific duties to cooperate applying to named agencies. In accordance with recent legislation, new flexible strategic safeguarding arrangements will replace Local Safeguarding Children Boards (<i>Children and Social Work Act 2017</i>); only local authorities, health and police are named as statutory safeguarding partners.</p>	<p>Promoting wellbeing and prevention through cooperation is a key aim of <i>The Care Act</i>.</p> <p>A key difference is the adult system is still in the relatively early stages of embedding the <i>Care Act 2014</i>. The latest <i>MSP Temperature Check</i> found that a primary area for further development in local areas is the involvement of partner organisations in safeguarding (Cooper et al, 2016).</p> <p>Safeguarding Adult Boards have evolved over a different timeframe to similar arrangements for children, and were made statutory relatively recently. The fact that they are on a statutory footing is now a key difference with the children’s system further to Local Children’s Safeguarding Boards (LSCBs) being replaced by local arrangements.</p>
<p><b>Thresholds and eligibility</b></p>	<p>Children fall within the scope of safeguarding duties if the local authority has ‘reasonable cause to suspect that a child who lives, or is found, in their areas is suffering, or is likely to suffer, significant harm’. They should make enquiries to ‘enable them to decide whether they should take any action to safeguard or promote the child’s welfare’ (<i>The Children Act 1989</i>).</p>	<p>The safeguarding duties apply to an adult who: ‘has needs for care and support (whether or not the local authority is meeting any of those needs) and; is experiencing, or at risk of, abuse or neglect; and as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect’ (<i>Care Act Statutory Guidance</i>, 2014).</p> <p>The statutory guidance under the <i>Care Act 2014</i> outlines steps to take for young people who are ‘likely to have needs’ at transition as well as for those who are not in receipt of children’s services. The statutory guidance states ‘the adult’s needs arise from or are related to a physical or mental impairment or illness. Local authorities must consider at this stage if the adult has a condition as a result of either physical, mental, sensory, learning or cognitive disabilities or illnesses, substance misuse, brain injury ... a formal diagnosis of the condition should not be required’<sup>2</sup>.</p>

Figure 2 **The underpinning framework, concepts and duties for support at transition: SEND and young carers**

The framework at transition	
<b>Underpinning statutory guidance</b>	Statutory support was extended up to 25 years for SEN in the <i>Children and Families Act</i> and <i>Care and Support Act 2014</i> , and transition arrangements for young people likely to have needs, including young carers, was clarified in the <i>Care Act 2014 statutory guidance</i> .
<b>Key concepts</b>	<p><b>Special educational needs and disability (SEND) – applies to 0-25 years</b></p> <p>Changes brought in by the <i>Children and Families Act 2014</i>:</p> <ul style="list-style-type: none"> <li>&gt; Participation of children and young people and parents in decision-making at individual and strategic levels.</li> <li>&gt; The right of young people to make a decision is subject to their capacity (aligned with the <i>Mental Capacity Act 2005</i> and Code of Practice).</li> <li>&gt; High aspirations and improving outcomes for children and young people.</li> <li>&gt; Joint planning and commissioning of services to ensure close cooperation between education, health and social care.</li> </ul>
<b>Key duties / eligibility</b>	<p>The <i>Care and Support statutory guidance</i> (DH, 2014) refers to safeguarding at transition between children’s and adults’ services. The guidance is clear that the adult team should involve children’s safeguarding colleagues, and other relevant partners. The same should apply for complaints or appeals and when an individual moves area.<sup>3</sup></p> <p><b>The <i>Care and Support statutory guidance</i> (DH, 2014) principally applies to:</b></p> <ul style="list-style-type: none"> <li>&gt; Young people with special educational needs who have an Education, Health and Care plan and those who may not have a plan.</li> <li>&gt; Preparing young carers for transition.</li> </ul> <p><b>The guidance also sets out that local authorities should consider:</b></p> <ul style="list-style-type: none"> <li>&gt; <b>Identifying young people who are not receiving children’s services who are likely to have care and support needs as an adult</b> - this means that ‘they have any likely appearance of any need for care and support as an adult – not just those needs that will be deemed eligible under the adult statute’. The expectation is that young people in receipt of children’s services are ‘likely to have needs’ and will be known to local authorities.</li> <li>&gt; <b>Young people and young carers who are not already receiving children’s services.</b> It highlights that ‘support in the community can be particularly helpful’ for these young people. Examples of young people in this position are given as:             <ul style="list-style-type: none"> <li>- young people with degenerative conditions</li> <li>- young people with autism (who have had needs met by the education system)</li> <li>- young carers</li> <li>- young people detained in the youth justice system</li> <li>- young people receiving Children and Adolescent Mental Health Services (CAMHS).</li> </ul> </li> </ul>

Figure 3 The underpinning framework, concepts and duties for support at transition: Care leavers

<b>Age range</b>	16 – 25 years
<b>Underpinning roots</b>	The framework was extended for all care leavers up to 25 years in the <i>Children and Social Work Act 2017</i> . Updated guidance can be found at: <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/683701/Extending_Personal_Adviser_support_to_all_care_leavers_to_age_25.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/683701/Extending_Personal_Adviser_support_to_all_care_leavers_to_age_25.pdf</a>
<b>Key duties / concepts / eligibility</b>	Personal Advisor (PA) support applies to all care leavers to age 25. Levels of support and assessment are tapered 'in recognition of their growing maturity and independence'. There is an 'absolute duty' to accommodate (as well as provide PA support) for 16 and 17 year olds. This changes to a 'proactive duty' for 18 to 20 year olds, and lessens to an assessment of needs and pathway planning <i>only</i> when the young person requests support aged 21 or over.

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(Footnotes)

- 1 See here for MSP resources: [www.local.gov.uk/topics/social-care-health-and-integration/adult-social-care/making-safeguarding-personal](http://www.local.gov.uk/topics/social-care-health-and-integration/adult-social-care/making-safeguarding-personal)
- 2 See [www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance](http://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance)
- 3 See paragraph 16.74 page 317, *Care and Support statutory guidance*.