

Unlocking sexual abuse and learning disabilities



Supporting
adults with
learning disabilities
who have been
sexually abused

**A guide for
family carers and
support staff**



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1 - INTRODUCTION

Abuse is wrong and anyone who experiences it should get appropriate support. This booklet covers how to help adults with learning disabilities deal with sexual abuse and its consequences. It provides basic information for families and care staff about what to do when they suspect or know that someone has been abused or when someone discloses abuse. It also explains what might happen after abuse is reported and the support and assistance that might be available.

Most of the information is equally valid for informal or family carers and for paid carers. However, there are some significant differences about what care staff must do when they identify abuse. It is important that support workers or social care workers know their own organisation's policies and procedures on abuse. This booklet is not a substitute for these.

Some situations involving adults with learning disabilities can raise complex and difficult questions about capacity. This booklet attempts to distinguish abuse from consenting sexual behaviour.

There is a separate accessible booklet for adults with learning disabilities called *Surviving sexual abuse*. It can be read alongside this booklet.

Wherever you see **purple text**, it means there is more information about this organisation or resource in section 5 (under Useful organisations and Useful publications).

Vulnerability to abuse

People with learning disabilities have the same rights to consensual and loving relationships as anyone else. They have the right to be treated with respect and dignity and to feel safe. They have the right to make choices and to have information that helps them to do this.

However, adults with learning disabilities can be more vulnerable to abuse than others for lots of different reasons.

If people have lived or are currently living in an institutional setting like a hospital or residential home, then they may have learned to comply with the wishes of others. This can make it easier for others to bribe, force or manipulate them.

People may not know about or understand their rights – especially the right to say “No”. They may never have received good education about relationships, sex, and sexual boundaries. Often people with learning disabilities want to please others and may have poor social skills. They may not recognise that abuse is happening.

Communication skills may be poor and some people may lack the words or ability to tell others what is happening. If someone is unable to communicate effectively then any other indications of abuse, such as changes in behaviour, might be misunderstood and regarded simply as part of their disability.

Many people with learning disabilities have relied on others for all of their lives. They may feel dependent and powerless. Their disabilities or lack of knowledge may prevent them from defending themselves or stopping something from happening.

People sometimes need support that is of a personal or intimate nature and this can reduce awareness of their right to privacy. Many people with learning disabilities have always needed high levels of help with bathing or going to the toilet and this has continued well past childhood. In other circumstances, children begin to set boundaries about who can see them naked but often this has not happened for adults with learning disabilities.

Sometimes, people receive intimate care on a one-to-one basis. Staff ratios in care and support services can mean that close supervision is often not possible.

Sometimes, the procedures for reporting ill-treatment or abuse are unclear. Even if staff or others have suspicions, they may be reluctant to report abuse or not sure who to tell.

All of these things can leave adults with learning disabilities more vulnerable to abuse.



How to make people safer

When someone has been abused – or there are fears or worries about it happening – then a natural reaction can be to increase support in an effort to protect the person. For example, there might be fears about allowing the person to be alone. While this is an understandable response, it is important that people's rights are respected. Individuals should not have their own liberty restricted or feel punished for something that was done to them without their consent.

One of the key ways to prevent abuse is to make sure that children, young people and adults with learning disabilities know about appropriate behaviour, and are encouraged to talk about their experiences. If they are taught that they will be listened to and their views respected, this will build awareness and confidence. If someone has communication difficulties, then it will be important to use the methods, aids, and language that most suits that person. Parents and care staff should already know the person's communication needs but may want to obtain relevant accessible resources that can help increase the person's awareness or spark a conversation or other communication.

Dave Hingsburger, a Canadian therapist who works with people with learning disabilities, suggests the following ways to protect adults from abuse:

Opportunities for healthy sexuality

People who do not feel loved or loveable are more easily exploited. Make sure people have the chance to build healthy and loving friendships and relationships and to feel valued by others.

Sex education

People need to know the names of body parts and their uses, and that sex is supposed to be for pleasure. They need to know about loving relationships and consent and what this means. They also need to know about responsibility and responsible choices. The ENABLE Scotland library can lend out resources that can help with sex education.

Knowing what privacy means

People need to understand that their body belongs to them and that no-one should touch it without permission. All parts of a body should be regarded as private – not just some parts. This includes not hugging or cuddling someone inappropriately. Privacy can be demonstrated by treating people with respect, asking permission, and not talking about people's private information in a public space.

Being able to say “No”

Many people with learning disabilities are used to not having any choice. If they do attempt to make a choice, often others disregard what they say. Set up safe situations where the person has the chance to say “No” and to learn appropriate non-compliance skills. For example, ask if the person wants to go somewhere or have a particular food to eat – and then respect their choice. Teach them that it's okay to say “No”. Do not falsely offer a choice if there is no choice – otherwise the person will learn that saying “No” means they have to do something anyway. For example, do not ask someone if they would like to go out, if they must leave the house and there is no real choice.

Having someone who listens

People will not learn to speak up if no-one takes the time to listen to them or if others disregard what they have to say.

Understanding personal rights

People need to know what their rights are and how to complain. Anyone working with people with learning disabilities also needs to understand what rights everyone has. Joint training for both support workers and people with learning disabilities can be helpful.

Self confidence and belief

People need to believe that they matter and that they have value. This will help them to resist being abused and to speak up when it happens.

It is not always possible to prevent abuse happening. However, if people with learning disabilities are confident, are aware of their rights and appropriate boundaries, are practised at saying "No", and are encouraged by caregivers not to keep secrets, they are less likely to become victims of abuse.



2 - ABUSE AND LEARNING DISABILITIES

What is sexual abuse?

Abuse or assault can happen to anyone of any age or ability and much of the advice is common to all groups. It can happen to women or men.

Abuse

"...may be physical, verbal or psychological, it may be an act of neglect or an omission to act, or it may occur when a vulnerable person is persuaded into a financial or sexual transaction to which he or she has not consented, or cannot consent."

(Department of Health 2000)

People with learning disabilities can experience abuse just like anyone else. The extent of abuse amongst people with learning disabilities is not really known because, although some research is available, abuse often remains unreported for a variety of reasons. However, from what is known, it seems that people with learning disabilities are at increased risk of abuse.

This booklet uses a wide definition of "sexual abuse". The term is taken to include any sexual activity to which an individual does not, or cannot, consent.

Sexual abuse can take a variety of forms. For example, it includes:

- Rape
- Penetration
- Touching

- Indecent exposure
- Harassment and sexual innuendo
- Forcing someone to look at pornography
- Getting sexual gratification from watching someone receive personal care such as washing or using a toilet.

Some activity is also abusive because of the relationship between those involved. It is against the law to engage in sexual relationships with close relatives and with children. It is against the law for care staff to have a sexual relationship with someone with a learning disability whom they support.

Many professional bodies prohibit a sexual relationship between certain people even if it is consensual. For example, it is not appropriate for doctors to have sexual relationships with their patients.



What the law says

The law on sexual relationships

Consent

Sexual relationships should always be consensual – meaning everyone involved must agree to it. If a person is unable to consent, or has not consented, then this is considered a sexual assault. If the person has only consented because they have been threatened then this is still an assault. The fact that someone consents to one activity - for example, kissing - does not mean that they have consented to any other activity. In addition, someone has the right to withdraw their consent at any point if they change their mind.

Relatives

Some relationships are illegal because the people involved are closely related. For example, relationships between parents and children or between brothers and sisters are illegal.

Children

The age of consent in Scotland is 16. Sexual intercourse with someone under the age of 16 is a criminal offence.

Care Workers

It is a crime for staff providing care services or health care services to have a sexual relationship with someone with a learning disability whom they support.

Sexual Offences (Scotland) Act 2009

This new Act widens the definition of rape and also makes changes to the definition of consent. It is likely to come into force in 2010.

Learning disability and capacity

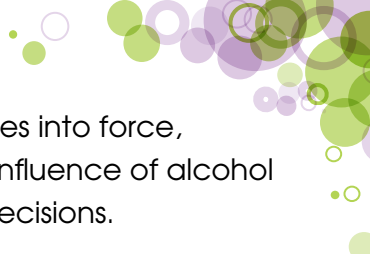
Some people with learning disabilities are unable to understand or make decisions about sexual activity. If this is the case then anyone who engages in sexual activity with them commits a criminal offence.

In basic terms, capacity means a person can understand sexual activity and is able to come to a decision about whether or not it is something they want.

Assessing capacity can be complicated. In the first instance, attempts are normally made to build someone's capacity to understand and make decisions. However, some individuals will never have the comprehension necessary to make their own decisions.

In relation to sexual activity, consent is not valid when someone:

- Does not understand they can refuse sexual activity
- Does not know how to refuse
- Is offered a reward for sex
- Is scared to refuse because of threats.



When the Sexual Offences (Scotland) Act comes into force, consent will not be valid if a person is under the influence of alcohol or drugs to the point where they cannot make decisions.

In some cases there will be genuine doubt about capacity. For example, it might be felt that the person can understand some types of sexual activity but not the consequences. Or that they can consent with one person while another relationship appears abusive. These situations are complicated and will need to be carefully assessed by those involved in care and support. The person may need some independent advocacy support to ensure their views are heard. (see page 40)

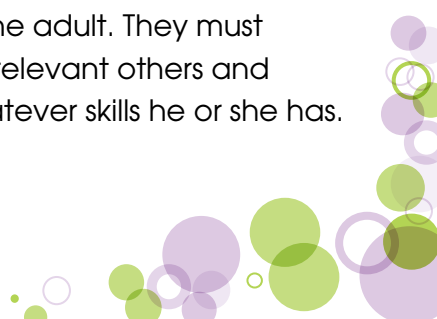
Doubts about understanding and communication should never be a reason not to report or acknowledge abuse.

The law on adults who may be vulnerable

There are a number of laws to support and safeguard people who may need some interventions in their lives from time to time.

Adults with Incapacity (Scotland) Act 2000

Anyone over the age of 16 in Scotland is assumed to be an adult and to be able to make decisions for him or herself. If an adult is unable to do so, then this Act provides options for others to get authority to act on the person's behalf. This includes consenting to medical treatment, and dealing with financial and personal affairs. Anyone acting under the Act must make sure their actions are as minimal as possible and will benefit the adult. They must take account of the adult's wishes, consult relevant others and encourage the adult to use or develop whatever skills he or she has.



Mental Health (Care & Treatment) (Scotland) Act 2003

Occasionally someone with a 'mental disorder' may need compulsory medical treatment including detention in hospital until they are well again. 'Mental disorder' is defined as learning disabilities, mental health problems, or a personality disorder. This Act sets out how and when treatment can be provided, what rights people have and how these can be protected. Under this Act, people have a legal right to access advocacy services to ensure their views are heard.

Adult (Support & Protection) (Scotland) Act 2007

This Act introduces new measures to protect 'adults at risk'. An adult at risk is someone aged 16 or over who:

- is unable to safeguard their own well-being, property or other interests; and
- is at risk of harm; and
- is more vulnerable to being harmed than other adults because they are affected by disability, mental disorder, illness or infirmity.

Under this Act, local authorities have a duty to make inquiries about adults at risk but they must take account of the adult's wishes and cannot force the adult to talk to them or be medically examined. However, if a local authority believes that the person is being unduly pressurised, it can get a court order allowing it to remove the person for protection or assessment. If this Act is going to be used to support someone or to intervene, then the adult should be given the opportunity to have independent advocacy to help them give their views.

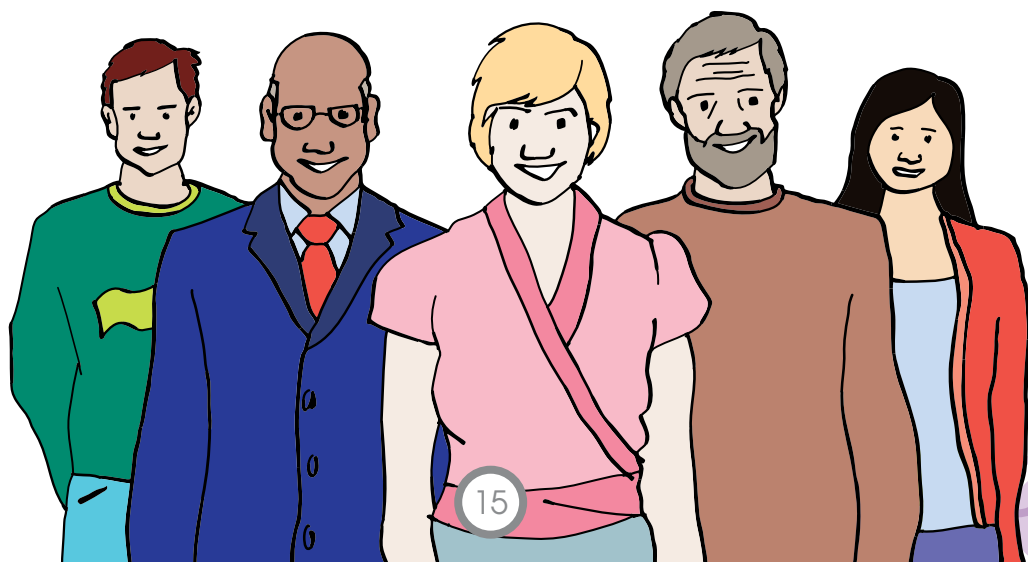
Who abuses people with learning disabilities?

Anyone can be a potential abuser.

This can include:

- Family members
- Care staff
- Partners and friends
- People in their social networks
- People visiting the service that they use
- Other people with learning disabilities.

Abuse by strangers is relatively rare. People almost always know their abuser. There is no definitive research that indicates who is currently most likely to abuse someone with a learning disability. Some studies indicate that abuse is likely to come from other service users or from those with a family connection. Most abusers are male but women can be abusers too.



Abuse by people with learning disabilities

Sometimes the abuser is another person with learning disabilities. As people move towards more individually-tailored services, they are less likely to live in shared residential care or use group services. Therefore, incidences of abuse between people using the same service may decrease but historical abuse may still come to light.

If both the abuser and victim have learning disabilities then the situation may need even more sensitive handling to clarify what has happened, deal with it and prevent it happening again. In the past, abuse that occurred between adults with learning disabilities was sometimes ignored and not taken seriously. It is important that this does not happen to ensure that everyone involved gets appropriate intervention and support.

Who is abused?

Most victims are women but men are also vulnerable to abuse. There are no reliable figures about how many people with learning disabilities have been abused. **The Ann Craft Trust** has highlighted that people with learning disabilities have a higher risk of being the victims of crime or abuse but are less likely to report it or speak out.

Where and when does it happen?

People are most likely to be abused where they live.

Sadly, for many people with learning disabilities abuse can be a regular occurrence and can continue undetected for years. So it is vital to give people the confidence and tools to speak out and to have trusted adults they can tell, and for caregivers to be attuned to the signs of abuse.

Do not think "It can't happen here". Abuse can happen anywhere.

3 - FINDING OUT

Discovering that someone has been sexually abused

There is no one way that sexual abuse will be apparent or that a person will disclose it or show that it has happened.

Sometimes, there will be direct evidence of abuse. The person may tell you what happened to them or you will notice obvious physical injuries. In other cases there may be significant changes in behaviour.

A person might have been abused yet not have any apparent signs. On the other hand, people who have never experienced abuse may show some of the same symptoms. For example, some people bruise easily from the slightest knock.

It is important that any disclosures, injuries or behaviour changes are investigated properly and additional support is provided where appropriate.

Recognising signs of sexual abuse

Sometimes there are signs or signals that someone may have been abused or which may raise your suspicions.

Physical signs

The person may have physical injuries or there may be other evidence, particularly where the assault is recent.

This may include:

- cuts, bruises and bleeding especially in the inner thighs or genital areas
- unexplained difficulty in walking or sitting
- complaints of pain or discomfort from intimate areas
- stained underwear or bedlinen
- damage to clothing
- missing items such as underwear.

Any of the indicators above may be important evidence if the abuser is charged. Therefore, take advice from medical staff and the police about what to do next after any necessary immediate care is given. It is important that this is done as soon as possible after the assault as otherwise vital evidence may be lost.

If the person does not want to involve the police at this stage or wants time to think about this, forensic evidence can sometimes be captured and stored by another agency, eg **Archway Glasgow**.



It is common for people to freeze and not fight back during an assault or to be scared into submission. A lack of physical injuries is not evidence of consent to sexual activity.

Pregnancy or Sexually Transmitted Infections

Pregnancy or sexually transmitted infections are obvious signs that sexual activity has taken place. In some cases, the activity may have been consensual and this may raise other issues such as sex education and contraception options. In other cases, the person with a learning disability may lack the capacity or ability to explain what has happened and there may be a clear view that the person could not consent to sexual activity. However, do not make assumptions about a lack of consent simply because the person has a learning disability.

Options will need to be explored with the individual and medical treatment considered.

Deciding whether or not to continue with a pregnancy is a significant decision and outwith the scope of this booklet. However, a woman with learning disabilities has the same choices as everyone else and it is crucial to avoid assumptions about what she wants to happen.

Changes in behaviour

People's behaviour can change after being abused. These changes may be significant in people with learning disabilities who are unable to say or to express what happened to them. They may not even understand what has happened but feel violated and that it was wrong.

Changes might include:

- Different sleeping patterns or distress about going to bed
- Angry or violent outbursts
- Loss of personal modesty
- Changes in sexual behaviour and a lack of understanding about appropriate behaviour
- Fear of going out or being alone
- Difficulties in maintaining intimate relationships
- Using language of a sexual nature that they did not before
- Reactions to people of a specific sex
- Self harm, injury or abuse.

Not all change in behaviour is a sign of abuse. Sometimes, it can just reflect a change in the person's normal routine or have a clear cause. However, unexplained changes in routine behaviour should always be taken seriously. It may indicate how someone feels, particularly where the person does not have the words to communicate verbally.

Family carers, and experienced staff who know the person well, will recognise the person's usual routines and patterns of behaviour. This will help to identify when something is out of the ordinary.



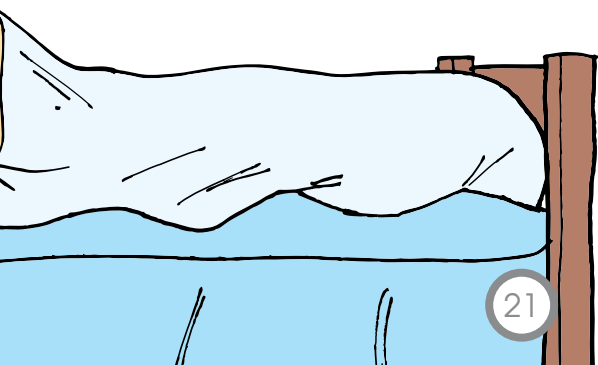
Emotional difficulties

The emotional effects of abuse are often significant. These effects can be short-lived or last a long time and will be different for every individual.

These can include:

- Depression
- Self-harm or abuse
- Obsessive behaviour, eg washing themselves all the time
- Nightmares
- Panic attacks
- Flashbacks
- Eating disorders
- Drug or alcohol dependency or abuse
- Low self esteem
- Loss of confidence and hope.

People will express or deal with their emotions very differently. Some people may appear to be coping very well but may become distressed months or years later.





Grooming

Grooming is when someone prepares another person to be the victim of harm, often of sexual abuse. The grooming can last for months or years. It can be used by those who know the adult well or by strangers. Grooming can be very subtle. Often the person and their family do not realise that it is happening and that they are being manipulated.

Grooming can take many forms like:

- Paying an inappropriate amount of attention to the person
- Telling the person that they are 'special'
- Offering, promising or giving gifts
- Offering to help the family or carers in order to gain access to the person
- Openly or 'accidentally' exposing the person to nudity or sexual materials
- Having inappropriate boundaries eg sharing 'problems'
- Giving the person special treatment and privileges.

Other abuse

Sexual abuse does not always happen in isolation. If someone has been financially, physically or emotionally abused then it is possible that sexual abuse may also have taken place.

Barriers to disclosure

It is not easy for anyone to say that they have been abused. It is more difficult for people with learning disabilities.

Barriers for people with learning disabilities

Key issues are a lack of knowledge, a lack of communication skills and the attitudes of others.

Often people with learning disabilities simply do not understand that what has been done to them is wrong. Sometimes the abuser will coach the person into feeling this is part of a special relationship. People with learning disabilities can be particularly vulnerable to this because of their need to have friends and feel grown up.

People who need support with communication may have received limited sex education. They may not have the words or knowledge to describe what has happened. They may also use the wrong words to describe actions. For example, they may describe touching or kissing as sex. If someone lacks the correct words to describe exactly what happened, it does not mean that they were not abused.

The attitude of others toward sexual relationships and people with learning disabilities can sometimes be unhelpful. It can lead to assumptions such as -

- “They don’t really understand what has happened”
- “They must be making this up”
- “No-one would want a sexual relationship with someone with a disability”
- “It’s better not to talk about it in case we make it worse or put ideas in their heads”.



It is crucial to recognise that abuse can and does happen regardless of ability, sex, age or ethnic origin.

In particular, people with learning disabilities can find that situations are taken out of their control. Often others think that they know what is best for the person and might ignore what the person wants. It is important that the abused person is given as much choice and control as possible so that they do not feel further disempowered.

They may need support to express how they feel and to say what they actually want to happen.

Common reasons for not telling

Many people who have been abused do not speak up about it, not just people with learning disabilities. Here are the most common reasons.

- **How others will react**

The person may have been told that family members will not believe what happened or that they will be angry and believe it was the person's own fault. They may worry about upsetting their family and friends or being rejected, especially if the abuser is someone known or trusted.

Often people worry about being asked why they did not fight back or struggle or tell before. There are many assumptions about how people would or should react to abuse or assault. Many people assume the natural reaction is to fight back, struggle and scream. However, it is also very common to freeze, or to feel detached from your body and to comply to avoid physical injury. The lack of a struggle does not imply consent.

- **Shame and confusion**

They may believe or have been told by the abuser that the abuse is their own fault or that they deserved it. Abuse can also cause worries about sexuality. The person might be worried that the abuse has altered their sexuality.

- **Finding the right words**

It can be difficult to know where to start to explain or how to describe abuse or what words to use.

- **Worry about what the abuser will do**

Some abusers use threats to make sure people remain compliant.

- **Conflicting feelings**

Abuse is often carried out by people in a position of trust including family members or other caregivers. Although the person may want the abuse to stop they may have strong feelings towards the abuser. They may not want to do anything that will stop them from having contact with each other. If the abuser is a member of the family, the victim may not realise that what the abuser is doing is wrong. And if they do, they may want to protect the abuser or others in the family from hurt or upset.

- **Low conviction rates**

The conviction rate for rape and sexual assaults is very low. This can lead to a feeling that there is little or no point in reporting abuse to the police. However, it can still be a good idea to tell the police what has happened. In some cases, the same person might have abused or assaulted someone else and this can make it much easier to prove a crime. It also means that the person can get support and think about applying for criminal injuries compensation.



When someone discloses abuse

Despite the barriers to telling others, the person you care for might disclose to you that they have been abused or sexually assaulted. The abuse may have happened recently or some time ago. Telling might be prompted by another incident of abuse, the death of the abuser or as a result of sex education and greater awareness. There might be no obvious trigger. The person might simply have reached a point when they want to tell someone what happened.

Sometimes, the person may hint or indicate in some way that abuse has taken place, but may change the subject quickly. He or she may seem unable or reluctant to go into any details.

Occasionally, someone may talk about abuse generally or speak about another person who has or may have been abused, and seem to be looking for your reaction. It is important to let them know that it is okay to talk about anything that is making them unhappy or confused.

Being told by someone else

Information about abuse might come from someone else. The person you care for may have discussed what happened with someone else who then feels it is appropriate to pass the information to you. Alternatively, the other person may have witnessed the abuse or also been a victim of the same abuser.

4 - DEALING WITH ABUSE

How to respond when someone tells you

Dealing with the disclosure of abuse can be difficult, especially if it is unexpected or sudden. It may be difficult for you to hear what someone is telling you. The next section explores how to respond and make sure the person you care for feels listened to, is supported effectively and feels safe.

Treat the matter seriously. Do not ignore suspicions or refuse to respond when someone tells you about abuse. There is always something that you can do.

When someone with a learning disability tells you about an incident of abuse, listen carefully and use the method of communication that the person prefers. Don't pressure them into telling you more than they wish. Don't interrupt them or put words in their mouth or distract their thoughts. Keep your voice calm and reassuring – even though you may be feeling distressed yourself.

Do not ask probing or leading questions like "Was it Mr or Mrs X that did this?" Use questions like "What happened?" "What do you mean?" "What happened next?"

Do not correct or change the person's choice of words either during the conversation or in any written statement afterwards.

Think about your body language. Sit at a distance and in a position that makes the person feel comfortable. They may not want to look at you when they are telling you. Be careful with physical contact as they may associate touch with abuse.



Ideally, choose a quiet undisturbed setting. If the person chooses an inappropriate time and place, try to go somewhere more suitable to talk. If you cannot do this straight away, then tell them that what they are saying is very important and arrange a time and place to talk to them about it later that day. Avoid discussing it in a public place where confidentiality cannot be kept or the person may become embarrassed.

Make sure the person feels listened to. Allow them to take their time in telling you. However, do not go on probing. Asking too many questions may affect any subsequent investigation by the social work

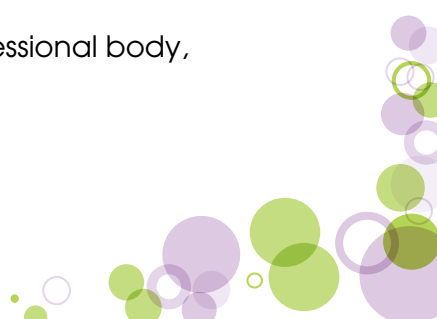


department or police. Once the person has given you information that indicates abuse has taken place then end the conversation gently. Reassure the person that you believe them, that you want to help and make sure he or she feels supported. Tell the person what you are going to do next.

Do:

- always take what the person says seriously
- show concern
- listen patiently
- stay calm
- reassure the person that telling is the right thing to do
- explain what you are going to do next
- record anything you have seen including the date, time and place
- write a factual account of your conversation with the individual as soon as possible while the details are still fresh in your mind. Use the person's own words. Date and sign this statement.

If you are a care worker -

- report the disclosure of abuse to the appropriate manager immediately so that measures can be taken to protect the individual
 - make sure you know and follow your organisation's guidelines concerning procedures and involvement of police and social work services
 - seek advice or support from your professional body, if necessary.
- 



Do not:

- **promise to keep the disclosure secret**
- comment, or make any judgement about what the person is telling you
- appear horrified or disgusted
- ask leading questions or put words in the person's mouth
- press the individual for details if they are reluctant to give any – for example, the name of the abuser
- dismiss what they have told you, for any reason
- make assurances such as “ now that you have told someone, this will never happen again”
- tamper with or remove possible forensic evidence
- put your opinions in any report that you write
- take sides, or ‘cover up’ for a colleague
- warn or confront the alleged abuser
- discuss the matter with other colleagues.

Dealing with recent abuse

If a sexual assault is very recent then make sure evidence is not destroyed. This means the person not washing their body or their clothes and contacting the police as soon as possible. This maximises the chance of a conviction later and keeps options open.

Historical abuse

If the abuse happened some time ago then there is unlikely to be any physical evidence. However, it is important to take the allegations seriously and still consider involving the police at an early stage. The person may also benefit from specialist counselling.

What happens next

The person may ask you not to tell anyone else.

Do not promise to keep the abuse a secret. Do not try to investigate the situation yourself.

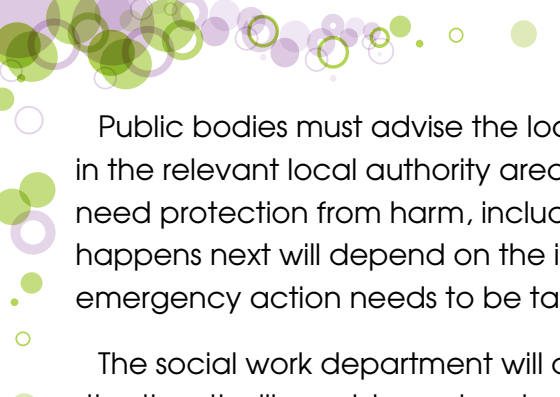
While it is important to make sure the person feels supported and able to decide as much as possible what happens next, it is not a good idea to keep the abuse a secret. If you do so, they might not get all the practical and emotional support that they need. The abuser might continue to intimidate and abuse the person – or they may have moved on to target others who are also being harmed.

In addition, you may have a legal obligation to report the abuse or to co-operate with any subsequent investigation of it.

Local authority duties to investigate abuse

The local authority has legal duties under several laws to safeguard people. This includes making inquiries about adults who are at risk of harm (see page 14).

Under adult protection law, public bodies - which include the local authority, health boards, the police, the **Mental Welfare Commission** and the **Care Commission** - must work together to protect adults at risk of harm. This includes sharing information. All local authorities in Scotland must have an adult protection committee to monitor procedures and ensure that agencies co-operate.



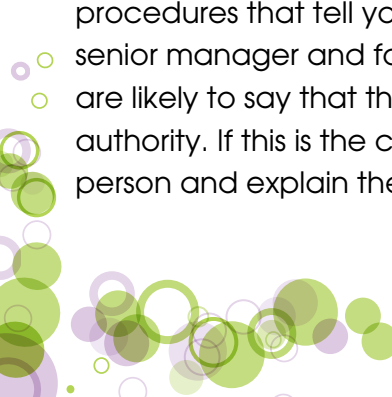
Public bodies must advise the local authority where someone in the relevant local authority area is an adult at risk and may need protection from harm, including sexual harm or abuse. What happens next will depend on the individual circumstances and if emergency action needs to be taken or not.

The social work department will decide how to respond in any situation. It will consider various issues like:

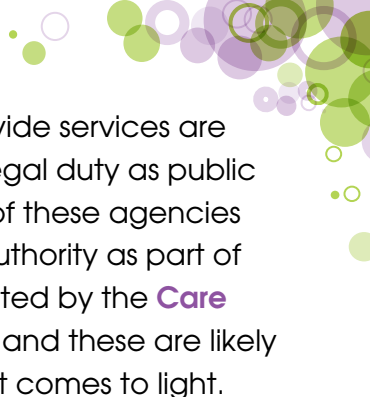
- whether there is an immediate or continuing risk of harm to the person
- whether it is likely an offence has been committed
- what support the person needs, including support to take part in any investigation
- what the person wants to happen
- the person's ability to consent to sexual activity and their level of capacity to make decisions.

If a crime has been committed or is suspected, the police will be involved and also investigate. The **Care Commission** may also need to be informed if the person uses a registered care service.

Staff in care services or other relevant agencies



If you are a care worker, your organisation will have policies and procedures that tell you what to do next. You must alert a more senior manager and follow the procedures. These procedures are likely to say that the abuse needs to be reported to the local authority. If this is the case, it is important you make this clear to the person and explain the reasons why.



Independent and voluntary agencies that provide services are not public bodies and are not under the same legal duty as public bodies to report harm or abuse. However, most of these agencies will have a legal obligation to advise the local authority as part of any contract to provide services. Services regulated by the **Care Commission** must have adult protection policies and these are likely to include an obligation to report any abuse that comes to light.

Family and friends

If you are a family member or a friend, you can talk to the person about what they want to happen next. Often when someone is abused, they do not want to involve the police. While it is good to respect a person's choice, you need to think this through carefully – especially if you think the person does not understand the situation fully or abuse could be ongoing.

Family members do not have the same legal obligations as care workers. However, anyone with a 'duty of care' may be obliged to report harm or abuse to the appropriate authority. This can include family members or other carers, particularly if you have a formal role as a guardian, attorney or named person.

If you have any doubts about what to do, then it may be better to report the abuse to the local **social work department** or the **Mental Welfare Commission**.

You can also contact a support agency like **Rape Crisis Scotland** to talk through any anxieties in confidence.

Going to the police

All police forces have specially trained staff who deal with rape and sexual assault. These staff will speak to the person and try to establish what happened. It is usually possible to ask the police to visit the person at home rather than attend a police station or to request a female or male officer depending on the person's preference. Ask if the police staff who will interview the person are specially trained.

If the assault is recent then there might be a need for an immediate medical examination. Again, it is possible to request a female or male doctor depending on the person's preference. However, this might not always be possible. A medical examination may involve taking blood, swab and urine samples. These tests can prove that intercourse or other contact happened as well as showing whether someone was under the influence of alcohol or any other drugs that might have impaired their ability to freely agree to sexual activity.

The police might ask to photograph any injuries. The person has the right to refuse a medical examination and the right to refuse to be photographed and this must be respected – although it may have implications for the likelihood of a conviction and this should be explained to the person. Where unprotected sex has taken place emergency contraception may be recommended and the risk of sexually transmitted infections assessed.

People with learning disabilities often need some support in explaining what has happened to them, especially if there are communication difficulties. The police should make arrangements for someone to be with the person during any interview. This is often under the Appropriate Adult Scheme (see page 38).

The person might be asked who they would like to support them. However, if the person they choose is likely to be a witness, then that person will not be allowed to provide support. It is common for the person who discovered the abuse to be a witness. It can be confusing for someone with a learning disability if they cannot have support from the person they want or expect to do this - so it is important the reasons behind any decisions are explained in an appropriate way.

The police will ask a lot of questions. Reassure the person that this is normal. Let the person know that they can ask what questions mean. They can say they do not know or cannot remember what happened, if this is the truth. This is better than giving contradictory statements.

The police will investigate what happened. If there is enough evidence they will arrest, question and charge a suspect.



Section 5 contains details of support agencies and the police may be able to give information about local resources for victims of abuse or sexual assault.

Prosecutions and going to court

The police must investigate the abuse then prepare a report for the Crown Office and Procurator Fiscal Service (COPFS). COPFS is responsible for making a decision on whether or not a prosecution should take place. It can only do this if there is enough evidence and if a case is in the public interest. All criminal cases need a lot of evidence including corroboration - eg DNA evidence or another witness - and sexual offences are particularly difficult to prove.

The rules on evidence in criminal cases are complicated and outwith the scope of this booklet. If the Procurator Fiscal decides not to proceed with a case, he or she can be asked to explain the decision to the person and their family. However, there is no way to compel them to give a reason. Victim Information and Advice (VIA) may also be able to explain any decision not to go to court or give an indication of the reason for no prosecution. If a case does not go to court, reassure the person that it does not mean they are not believed.

Historical abuse can be more difficult to prove. However, this does not mean a prosecution is impossible – especially if there have been a number of victims.

If a case does go to court then:

- The alleged abuser might admit some, or all, of what happened and plead guilty. If this happens, the judge decides how they should be punished. In these circumstances the person who was assaulted does not need to go to court to give evidence.

- The alleged abuser might deny some, or all, of what happened. Then there is the possibility the case will go to trial. This means the person who was abused may need to give evidence in court. Where the person has a learning disability, he or she may be able to use the supports available for vulnerable witnesses (see page 39).
- It is common for cases to be postponed on the day of the trial because key witnesses have not turned up. It is also common for the person to change their plea to guilty on the day that the case is due to take place. This means that evidence is not heard or examined in court. Victims and witnesses may be relieved that they do not have to appear in court or angry that they are not getting a chance to explain what happened.



Appropriate adult

The role of an appropriate adult is to make sure that someone with a mental disorder is not disadvantaged during a police interview as a result of that disorder. The term “mental disorder” includes people with a learning disability.

The police officer conducting an interview must arrange for an appropriate adult to be present if the police think this is necessary. An appropriate adult assists communication between the person being interviewed and the police. They may be volunteers or paid staff but should have received appropriate training. The appropriate adult should be independent of the police and, where possible, the person being interviewed. This means he or she must not be:

- someone employed by the police; or
- a relative or friend; or
- a carer; or
- someone who is also supporting anyone else involved in the case such as other witnesses or the accused.

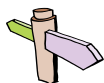
In exceptional circumstances, a relative, friend or carer may also be present during the interview as well as an appropriate adult.

Supports for vulnerable witnesses

This law allows people with learning disabilities to ask for additional support and help to give evidence in court. This includes:

- using a screen so they do not need to see the accused
- giving evidence using a live TV link
- giving some evidence through a written statement (although the defence solicitor will still be able to ask direct questions)
- giving evidence at a location outside the court
- having a supporter in court. The supporter cannot give physical support or communicate while the person gives evidence but can sit nearby to provide moral support.

If the case goes to court the procurator fiscal will discuss using these additional supports. These supports are also known as “special measures”.



See section 5 for Useful publications.



5 - GETTING SUPPORT

Getting ongoing support for the person

People with learning disabilities may be able to access a range of support and help them deal with the after effects of abuse.

Independent Advocacy

Independent advocacy is a vital resource for people with learning disabilities. An advocate encourages someone to speak up or speaks up for someone who finds it difficult to do this on his or her own. They have the unique role of making sure the individual is listened to and convey the person's own views without judging or making assumptions about what is for the best.

Advocacy can be crucial for people with learning disabilities who lack the confidence or ability to express their views and ask for the information they need to make an informed choice. It can particularly help those who are not used to being asked what they think or having their opinions taken seriously. Some people may also feel inhibited and pressured by those around them - including people who are trying to help them.

Local authorities have a legal duty to make sure those who need the services of an advocate are able to get them. If you think advocacy might be useful then ask the local authority for the contact details of advocacy agencies in your area or contact the **Scottish Independent Advocacy Alliance**.



While a skilled advocacy worker can help build someone's confidence to express his or her views, advocacy should not be confused with counselling.

Counselling and therapeutic support

You may be able to provide the person you care for with a lot of support and reassurance but sometimes this will not be enough. They may benefit from some professional counselling. You can help them obtain this through their GP or through the local learning disability team.

Sometimes talking to a specialist service can help. **Rape Crisis Scotland** offers a confidential helpline that anyone can call – including friends or relatives of someone who has been abused. It can also signpost you to other services in your area.

If there is likely to be a court case and the person will be called as a witness, then take advice from the Procurator Fiscal's office or the person who asked them to be a witness before arranging counselling support before the trial. There is a risk that the person's evidence will be affected if they have already talked a lot about what has happened. Anyone providing therapeutic support to witnesses should follow the **Code of Practice** in the guidance pack for vulnerable witnesses.



The Criminal Injuries Compensation Scheme

This provides financial compensation for the victims of crime. An application form can be obtained from the **Criminal Injuries Compensation Authority** (CICA). There is no need for the abuser to have been convicted but there is normally a requirement that applicants have reported the matter to the police. Applications are usually made after any court proceedings and there is a time limit.

Money does not take away the pain and distress for those who have experienced abuse. However, it can provide funds to assist a person to get the support and help they need. It can also help reassure the person that someone believes what happened.

If someone with a learning disability lacks the capacity to complete the form, someone else can do it on his or her behalf. In such circumstances any payment will usually be held in trust and the person can request funds from the trust when they need them.

Getting support for yourself

Discovering or suspecting that someone you care for has been sexually abused can be difficult and stressful for you as well as the person concerned. You will want to help the person and support them to deal with it effectively but you may not be sure of what you can do.

If the abused person is a member of your family or a friend it may also be very upsetting for you, particularly if the abuser is someone you know or trust. You may need advice or emotional support for yourself.

Parents, friends and families can struggle after the discovery of abuse. You may experience similar reactions and emotions to the person who experienced the abuse. You may be unable to sleep well. You may feel very angry – not just at the abuser but at the services that were supposed to keep your relative or friend safe. You might feel guilty that you were unable to protect the person or prevent it happening. You might also struggle to understand and accept what has happened. These are all normal reactions.



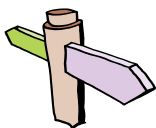


Care and support staff may also be upset by the discovery of abuse to someone they work with – especially if the abuse has taken place in the service or the abuser is a colleague. Staff may need support in dealing with issues and it is important that employers recognise this. It is important that staff feel able to tell their manager or agency that they find a situation uncomfortable and get appropriate guidance, support or reassurance.

Ways to cope can include talking to someone or focusing on activities that will keep you relaxed and healthy including simple exercise and eating properly. Do not try to ignore your feelings - get counselling if you need it.

In particular:

- do not underestimate the possible effects on yourself
- find a way of acknowledging and dealing with your own feelings
- be aware of confidentiality when discussing issues with partners, relatives or close friends
- seek support or counselling from your GP or employer
- other sources of counselling may be available through your professional body
- do not deny your own needs in an attempt to respond to someone else's.



Useful organisations

Sources of information or other support

Act Against Harm

www.infoscotland.com/actagainstharm

A Scottish Government sponsored website that explains about the Adult Support and Protection Act and where to get help if you or someone you know is being harmed.

The Ann Craft Trust

Centre for Social Work,
University of Nottingham,
University Park,
Nottingham NG7 2RD

Tel: 0115 9515400

Open: Mon to Thurs 8.30am -
5.00pm,
Friday 8.30am - 4.30pm

www.anncrafttrust.org

Works with staff to protect people with learning disabilities at risk of abuse and provides advice to parents and carers.

Archway Glasgow

2-6 Sandyford Place,
Glasgow G3 7NB

Tel: 0141 211 8175

www.glasgowarchway.com

Provides forensic services and support, including counselling, to those who have experienced rape or sexual assault if they have been assaulted within the past seven days. Open 24 hours a day. Offers help to women, men and adolescents (ages 13, 14 and 15). Adults do not need to involve the police and Archway can store forensic samples until someone has decided whether to go to the police or not.

Brook Advisory Centre

77 Church Street,
Inverness
IV1 1ES

Tel: 01463 242434

Open: Mon, Tues, Thurs 4pm-7pm;
Sat 12pm-3pm

National helpline: 0808 802 1234
(Monday to Friday, 9am-5pm)

www.brook.org.uk

Free and confidential sexual health advice and services specifically for young people under 25.

Care Commission

Compass House,
11 Riverside Drive,
Dundee DD1 4NY

Tel: 01382 207100 / 0845 603 0890

www.carecommission.com

Regulates and inspects care services in Scotland to ensure these meet national standards.

Criminal Injuries Compensation Authority (CICA)

Tay House,
300 Bath Street,
Glasgow G2 4LN

Tel: 0800 358 3601

www.cica.gov.uk

Pays compensation to people who are victims of crime.

ENABLE Scotland

2nd Floor, 146 Argyle Street,
Glasgow G2 8BL

Tel: 0141 226 4541

Email: enable@enable.org.uk

www.enable.org.uk

Supports people with learning disabilities and their families throughout Scotland. Enquiry Line open Mon-Fri 1pm-4pm for information on learning disability issues.

fpa

Unit 10,
Firhill Business Centre,
76 Firhill Road,
Glasgow G20 7BA

Tel: 0845 122 8676

www.fpa.org.uk

Useful resources on sexual health and relationships including some aimed at people with learning disabilities. Runs training courses.

Mental Welfare Commission

Thistle House,
91 Haymarket Terrace,
Edinburgh EH12 5HE

Tel: 0131 313 8777

User and carer advice line:
0800 389 6809

Email: enquiries@mwscot.org.uk

www.mwscot.org.uk

Safeguards the rights and welfare of people with a mental illness, learning disability or other mental disorder. If someone is not getting the right care and treatment, the Commission can investigate this.

NHS24

Helpline: 08454 242424

www.nhs24.com

Provides health information and self-care advice. Able to answer queries about sexual health and where to get further help.

Police forces in Scotland

www.scottish.police.uk

This website provides links to all police forces in Scotland. Or look in the telephone directory under Police for the telephone number and address of your nearest police station.

Rape Crisis Scotland

1st Floor,
Tara House,
46 Bath Street,
Glasgow
G2 1HG

Helpline: 08088 01 03 02
(6pm-12 midnight)

Office: 0141 331 4180

Email: info@rapecrisisscotland.org.uk

www.rapecrisisscotland.org.uk

Provides free confidential support and information for those who have experienced any form of sexual violence at any time in their lives. It can signpost you to local services.

Respond

3rd Floor,
24-32 Stephenson Way,
London NW1 2HD

Tel: 020 7383 0700

Email: admin@respond.org.uk

www.respond.org.uk

Provides a range of services related to sexual abuse and learning disabilities including support and training for families, carers and professionals.

Scottish Independent Advocacy Alliance

Melrose House,
69a George Street,
Edinburgh
EH2 2JG

Tel: 0131 260 5380

www.siaa.org.uk

Supports advocacy and can provide details of advocacy services in local areas.

Scottish Women's Aid

2nd Floor,
32 Rose Street,
Edinburgh
EH2 3JD

Office: 0131 226 6606

Domestic Abuse Helpline
0800 027 1234

Email:
contact@scottishwomensaid.org.uk

www.scottishwomensaid.org.uk

How to deal with domestic abuse including the contact details of your nearest local Women's Aid group.

Social work departments

Look in your local telephone book under the name of your council for contact details of your social work department. Or check your council website. There should be an emergency out-of-hours telephone number as well as a daytime office one.

Survivor Scotland

www.survivorscotland.org.uk

An information and education resource developed by the Scottish Government for survivors of childhood sexual abuse

Victim Support Scotland

15/23 Hardwell Close,
Edinburgh
EH8 9RX

Helpline: 0845 603 9213
(Mon-Thur, 9am-4.30pm,
Fri 9am-4pm)

Office: 0131 668 4486

Email: info@victimsupportsco.org.uk

www.victimsupportsco.org.uk

Helps people affected by crime and provides emotional support, practical help and information to witnesses, victims and others affected by crime.

Voice UK

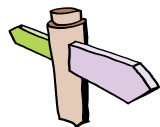
Rooms 100-106 Kelvin House,
RTC Business Centre,
London Rd,
Derby
DE24 8UP

Helpline: 080 8802 8686
(Mon-Fri 9am-5pm
and Wed 9am-7pm)

Office: 01332 291042

www.voiceuk.org.uk

Supports people with learning disabilities who have experienced crime or abuse, and their parents, carers and professional staff.



Useful publications

The abuse of vulnerable adults: what care workers need to know

Siobhan Maclean and Fern Basnett
Kirwin Maclean Associates, 2007
Isbn 978-1-903575-48-2

Available from:
www.kirwinmaclean.com
or telephone 01889 579175.

Adult protection and the law in Scotland

Hilary Patrick & Nicola Smith
Bloomsbury Professional, 2009
Isbn 978-1-84766-487-7

All about Us

fpa, 2008. Isbn 978-1-905506-67-5

A cd-rom learning resource for people with learning disabilities on growing up and personal and sexual relationships.

Available to download at:
www.fpa.org.uk

Being a witness: I am a witness in court: a guide for people with learning disabilities

(easy-read booklet)

Scottish Government, 2006
Isbn 978-0755-950324

Available to download at:
www.scotland.gov.uk/Publications

Being a witness - Helping people with learning disabilities who go to court: a guide for carers

Scottish Government, 2006
Isbn 978-0755-950331

Available to download at:
www.scotland.gov.uk/Publications

Information and help after rape and sexual assault

Scottish Government, 2008
Isbn 978-0-7559-5611-1

Available to download at:
www.scotland.gov.uk/Publications

Code of Practice: to facilitate the provision of therapeutic support to adult witnesses in court proceedings

In Special measures for vulnerable adult and child witnesses: a guidance pack

Scottish Government, 2006

Available to download at:
www.scotland.gov.uk/Publications

Just say know! : understanding and reducing the risk of sexual victimization of people with developmental disabilities

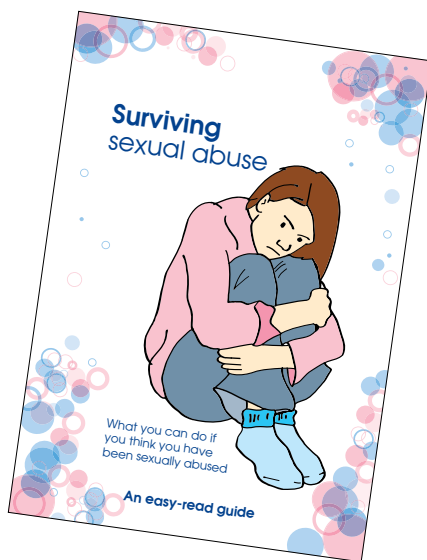
Dave Hingsburger
Diverse City Press Inc, 1995
Isbn 1-896230-00-8

Available from
www.diverse-city.com

Surviving sexual abuse: what you can do if you think you have been sexually abused
(easy-read booklet)

ENABLE Scotland, 2009

Available to download at:
www.enable.org.uk



All of these publications can be borrowed from the ENABLE Scotland library. Please contact the ENABLE Scotland Information Service on 0141 226 4541.



Thank you to everyone who
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please contact the ENABLE Scotland
Information Service on 0141 226 4541
or email: info@enable.org.uk

It can also be downloaded from
www.enable.org.uk

The text is also available, on request,
in audio or large print format.



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Web: www.enable.org.uk

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