

A safe pair of hands

The revised EYFS, which is now in force, has implications for safeguarding policy. NDNA early years advisor *Fiona Bland* explains the changes in the context of safeguarding best practice

Suspecting that a child in your care is suffering abuse can be very traumatic. Concerns you have about a child or disclosures that you hear, made by adults or children, should always be taken seriously and followed through appropriately using the nursery policy.

Everyone working with children has a responsibility to uphold the laws on safeguarding, so it is important the whole nursery team understands the different legislation and acts that underpin early years practice. Safeguarding needs to be a permanent agenda item at staff meetings to ensure your staff team can talk openly about any issues and that any concerns are addressed at the earliest opportunity. Managers should check staff's knowledge on the four areas of child abuse (physical, emotional, sexual and neglect), the indicators to look for, and how to report concerns.

Safeguarding defined

The formal Government definition of safeguarding has the following four elements:

- protecting children from maltreatment
- preventing the impairment of children's health or development
- ensuring that children are growing up in circumstances consistent with the provision of safe and effective care
- taking action to enable all children to have the best outcomes.

Child protection, an integral part of safeguarding, is defined as an activity undertaken to protect specific children who are suffering, or are at risk of suffering, significant harm.



Children's welfare is at the heart of safeguarding laws

The law

The Children's Act 1989 made radical changes to the laws relating to children and their families, shifting the balance from parental rights to the rights of the child.

It contained three main principles – the child's welfare is paramount,

delay is not in the child's interest and should be avoided, and courts should make no order unless it is in the interest of the child.

It also introduced the concept of significant harm as 'the threshold that justifies compulsory intervention in family life in the best interests of children'. This puts a duty on local authorities to make enquires to decide whether they should take action to safeguard or promote the welfare of a child who is suffering, or likely to suffer, significant harm.

Parts of the 1989 act were amended under The Children Act 2004, introduced following the Victoria Climbié inquiry. Notably, it brought all local government functions of children's welfare and education under the statutory authority of the director of children's services in each local authority.

Subsequent acts that have shaped early years safeguarding include The Childcare Act 2006, which fulfilled the Government's commitment to give every child the best start in life with the Every Child Matters outcomes for all pre-school children. The Safeguarding Vulnerable Groups Act 2006 tightened up the rules about people wanting to work with children and vulnerable adults. There is also the United Nations Convention on the Rights of the Child – the UK Government signed the treaty in 1990 and it came into force in 1992.

The safeguarding officer

The role of the designated safeguarding officer in a nursery is pivotal to the organisation. He or she will be the first port of call for any concerns from other team members, parents and possibly external agencies. Obviously, this person needs to be knowledgeable in child protection and general safeguarding practices. But he or she also needs to be approachable, confident to take concerns further externally and be the 'voice for the child' when required at inter-agency meetings and conferences.

Under the Early Years Foundation Stage (EYFS) framework, providers must train staff to understand the safeguarding policy and procedures and ensure all staff have up-to-date knowledge of safeguarding issues. Supporting continuing professional development is a key responsibility for all nurseries, within which child protection should be a high priority.

Remember that staff may not use their knowledge and skills relating to child protection for a ►

considerable amount of time, if at all, so refreshing their training and understanding of the internal and external procedures is essential to safeguard children in your nursery's care.

A broader approach

A joined-up approach to safeguarding will extend further than the nursery under the revised EYFS. The safeguarding policies and procedures in nurseries must be in line with the guidance and procedures of their Local Safeguarding Children Board, a statutory entity bringing together all children's agencies in an area. In some areas this will include being a part of the local Multi-Agency Safeguarding Hub (MASH).

The aim of the hubs is also to bring together staff from a range of agencies who meet in one room to improve the quality of information sharing and decision-making and to prioritise the most important cases. Childcare providers will be playing key roles here.

The hub will be the first point of call for information, advice or guidance on a safeguarding concern before deciding whether or not to make a referral to the local authority. Providers will need to give information on request about a child who has been referred to the MASH, and take action as a result of an outcome from the MASH. As well as involvement in the hubs, nurseries will need to look at practice changes for two other key areas of safeguarding.

Key change 1: SEND

The biggest change is the introduction of the new policy for special educational needs and disabilities (SEND). The SEND Code of Practice is more progressive than the previous framework and aims to identify children who may have, or develop, educational needs as early as possible and provide support for a longer length of time.

The new code brings in key legislation from The Equality Act 2010, Special Educational Needs and Disability Regulations 2014 and Statutory Framework for the Early Years Foundation Stage.

It is a legal requirement for all nurseries and practitioners receiving local authority funding. Unless your setting is a maintained nursery school, there is no requirement to have a written policy for SEND and disability, but there must be SEND

procedures in place (see the article on page 25 on the role of the SENCO).

Despite this removal, it is good practice to have a written SEND policy in order, for all to share. This must include a clear process for identifying any emerging difficulties as early as possible and a plan for how to tackle them.

It is important for nursery managers to ensure their settings are proactive and not wait until a formal check, such as the Progress Check at Age Two or the EYFS Profile, to start the process of identifying needs as outlined in the EYFS.

Key change 2: disqualification

There is also clarification on the disqualification rules. A member of staff can be disqualified from working in childcare if they are working in premises or sharing a household with someone who is themselves disqualified from working with children. It can be any member of the household, including partners, children and foster children over the age of 16, flat-mates and lodgers.

The key part of this guidance is that the person must be knowingly living with someone who is disqualified. They are not guilty of an offence if they do not know a person they are living with is disqualified.

MORE INFORMATION

The National Day Nurseries Association (NDNA) has free factsheets on the new SEND policy and disqualification, as well as a table showing the changes made in the new EYFS. See www.ndna.org.uk

It is important for nurseries to be pro-active on SEND rather than waiting for a formal check

For example, a member of staff may live in shared housing and may have little knowledge of the backgrounds of the people they live with. Neither the member of staff nor the provider has any legal requirement to seek this type of information.

The law clearly states it is when an employer 'knowingly employs' someone who is disqualified that it is an offence.

Providers who regularly ask staff to confirm there are no changes in their circumstances and act on any information received that brings a member of staff's suitability into doubt are acting with due diligence.

The employee is responsible for informing their employer if they are aware, or become aware that a fellow member of their household is disqualified.

If, however, an employer receives the information through a third party, the information should be treated as an allegation. The nursery should follow the policies already in place for reporting allegations against a member of staff.

In certain situations Ofsted can issue a waiver to allow a person to continue working with children. It is up to the individual, not their employer, to apply to Ofsted for a waiver and each application will be considered on its own merits. ■

