



## Consultation Response

# Children's Services Planning: Provision of Statutory Guidance

The Scottish Commission for  
Learning Disability  
June 2019



The Scottish Commission for Learning Disability (SCLD) welcomes the opportunity to respond to this important consultation. SCLD is an independent charitable organisation and strategic partner to the Scottish Government in the delivery of Scotland's learning disability strategy, The keys to life<sup>1</sup>. The strategy defines a learning disability as a significant, lifelong, condition that starts before adulthood, which affects development and means individuals need help to understand information, learn skills, and cope independently. SCLD is committed to finding new and better ways to improve the lives of people with learning disabilities and is focused on sharing innovation and good practice so that those providing services and interventions can learn from each other. SCLD also aims to be a knowledge hub and to build an evidence base, sharing how policy is being implemented and building on an understanding of what really works.

The aim of this response is to support the Scottish Government in the development and delivery of policy through sharing knowledge and providing practical solutions to policy based challenges in line with SCLD's strategic plan 2017-21.

With regard to the statutory guidance on children's services planning, SCLD has selected to respond to Question 1 and 2 of the consultation document, focussing on the effectiveness of the guidance in ensuring children's services across Scotland meet the needs of both:

- Children and young people with learning disabilities
- Parents who have learning disabilities.

Further SCLD will respond to Question 3 regarding effective consultation with both of these groups. At this time SCLD chooses not to respond to Question 4 or 5 of this

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<sup>1</sup> [The keys to life \(2013\)](#)

document as SCLD believes direct service providers will be able to give informed commentary on this subject.

From both examining the guidance and speaking to parents and professionals, SCLD has developed six key areas of improvement for the statutory children's services plans guidance. These are:

- 1.** Ensuring the practical application of children's rights in service planning
- 2.** Aligning the statutory guidance for children's services planning to The keys to life implementation framework (2019-2021)
- 3.** Supporting the statutory guidance for children's services plans with planning resources and toolkits
- 4.** Ensuring robust data on children and young people with learning disabilities to support service planning
- 5.** Ensuring the statutory children's services plans guidance supports legislative duties to provide supported parenting services
- 6.** Ensuring the statutory children's services plans guidance promotes active consultation.

Each of these six areas for development will be discussed before making a series of aligned recommendations regarding the refresh of the guidance.

*Question 1. Does the statutory guidance provided to date assist in the effective?  
Development of a Children Services Plan?*

*Question 2. What part(s) of the guidance were most helpful or least helpful? How  
could the guidance be enhanced to strengthen the effective development of a  
Children's Services Plan?*

## **1. Ensuring the practical application of children's rights in service planning**

In line with the guidance, SCLD supports the aims of the children's services plans which set out to safeguard, support and promote the wellbeing of children in the local areas.

However, SCLD believes that the guidance should make more specific reference to how this is achieved for children and young people with learning disabilities Including this with PMLD (profound and multiple learning disabilities) , through the meaningful articulation of their human rights.

SCLD believes that children's rights should be central to any children's services plan and should be at the forefront of local areas' plans. However, SCLD believes the national guidance fails to present a clear picture of how these rights can be ensured and best articulated in service planning. For example, the statutory guidance, in line with the Act states that local authorities and territorial health boards can report on UNCRC requirements,

*"...in such a manner as the authority considers appropriate"*

(Scottish Government; 2016, p.70)<sup>2</sup>

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<sup>2</sup> [Scottish Government \(2016\)](#)

While SCLD understands the legislative framing of the Act to allow local area flexibility, SCLD believes the guidance does not present a clear enough requirement to address children's rights and this could potentially allow for varying inconsistencies in practice.

This is particularly concerning given a lack of reference to ensuring the rights of groups of children and young people who experience disadvantage and discrimination, including children and young people with learning disabilities and commitments to advance their rights which span across international and UK legislation. This includes: The Human Rights Act (1998)<sup>3</sup>, The United Nations Convention on the Rights of the Child (UNCRC) (1992)<sup>4</sup>, The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) (2006)<sup>5</sup> and The Equality Act (2010)<sup>6</sup>.

To achieve this, planning partners should be supported to provide evidence of improvement, actions and outcomes in a more consistently structured way and be held accountable by the Scottish Government who will monitor this practice (please refer to recommendation 1).

## **2. Aligning the statutory guidance for children's services planning to The keys to life implementation framework**

Specific focus will be required to ensure the rights of children and young people with learning disabilities are included in children's services plans. To achieve this SCLD welcomes a closer alignment between statutory guidance for children's

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<sup>3</sup> [The Human Rights Act \(1998\)](#)

<sup>4</sup> [The United Nations Convention on the Rights of the Child \(1992\)](#)

<sup>5</sup> [The United Nations Convention on the Rights of Persons with Disabilities \(2006\)](#)

<sup>6</sup> [The Equality Act \(2010\)](#)

services plans and The keys to life implementation framework (2019-2021)<sup>7</sup>. This new framework has a focus not only on improving the lives of adults with learning disabilities, but also on making sure a new generation of children and young people with learning disabilities achieve the best outcomes for themselves as possible. This new approach focuses on an individual's whole life journey and the meaningful realisation of their human rights.

SCLD believes the suggested alignment towards key national policies and frameworks including The keys to life implementation plan (2019-2021) would improve outcomes for children and young people with learning disabilities. To achieve this, SCLD recommends a section of the guidance be developed to highlight and signpost to key national policies and frameworks, including The keys to life. This would be further supported by a revision of '*Figure 1: schematic of the statutory planning framework for children's services*' on page 65 of the guidance document. SCLD suggests that the outer ring of the schematic framework includes wider national policies and frameworks relating to improving outcomes for children and young people (please refer to recommendation 2).

An alignment with The keys to life implementation framework would critically support central key work streams regarding children and young people in this framework under the themes of living, learning and working. Each of these areas and the need for these being addressed as part of children services planning is outlined below.

## Living

As part of The keys to life framework (2019-2021)<sup>8</sup> a commitment was made to,

*"Recognise the rights of people with learning disabilities to enjoy and maintain healthy relationships, including sexual relationships."*

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<sup>7</sup> [The keys to life \(2019-2021\)](#)

<sup>8</sup> [The keys to life \(2019-2021\)](#)

(Scottish Government; 2019, p.27)

To achieve this, local authorities will need to work with education, health and the third sector to address gaps in service provision around Relationship, Sexual Health and Parenting (RSHP) education for children and young people with learning disabilities. Significant gaps in this type of education provision across Scotland were identified in SCLD's report 'Safe and Healthy Relationships: Empowering & Supporting People with Learning Disabilities through Education' which highlighted that 63.2% of 130 ASN schools or mainstream settings with an additional support base stated they experienced significant barriers in providing RSHP education to children and young people with learning disabilities.

SCLD believes it is therefore critical that children services planning takes a more active role in supporting the provision of RSHP for children and young people with learning disabilities as this pertains to both their rights to education under the UNCRC (Article 28) and the achievement of the SHANARRI wellbeing indicators.

## Learning

The keys to life implementation framework (2019-2021) also expressed a commitment to,

*"Work with local government to improve the consistency of additional support for learning across Scotland, through improved guidance, building further capacity to deliver effective additional support and improving career pathways and professional development (including new free training resources for schools on inclusive practices)."*

(Scottish Government; 2019, p.28)

And to,

*"Work in partnership with Education Scotland, the Association of Directors of Education, local authorities, and other leaders on awareness raising to stimulate*

*cultural change within our schools to improve the experiences of pupils with learning disabilities.”*

(Scottish Government; 2019, p.29)

However, at present children and young people with learning disabilities, including those with PMLD, face exclusion from education due to low levels of aspiration for children and young people with learning disabilities held by teachers<sup>9</sup>, high rates of exclusion and worrying trends in practice in relation to restraint and seclusion.

For example, IncluED in the Main (2016)<sup>10</sup> highlighted the extent to which children and young people with learning disabilities were being excluded from education, with 40% of the 503 parents and carers surveyed stating the children and young people they cared for had been excluded and 19% saying this took place on a weekly basis. The impact of exclusion ranged from missing out on educational opportunities to severe impacts on children and young people’s mental health as one respondent stated,

*“My son talked about suicide after last exclusion because he thought he was worthless & everyone would be better off if he was dead.”*

(Enable; 2016, p.37)

With regard to restraint and seclusion, The Children and Young People’s Commissioner for Scotland ‘No Safe Place’ report<sup>11</sup> identified a worrying lack of consistent policies on restraint and seclusion across local authorities, a lack of information on rates of restraint and seclusion across the country, and the damaging emotional impact this practice can have on children and young people’s wellbeing.

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<sup>9</sup> [McTeir, MacDougall, McGregor, Hirst, Rinne \(2016\)](#)

<sup>10</sup> [Enable \(2016\)](#)

<sup>11</sup> [The Children and Young Peoples Commissioner \(2018\)](#)



## Working

With regard to working, The keys to life implementation framework (2019-2021) committed to:

*“Building on the Seven Principles of Good Transitions, and broader recommendations received from sector experts, disabled young people and their families and carers, work across government to improve transitions into education, learning and work for young people with learning disabilities”*

(Scottish Government; 2019, p.21)

This work is of central importance to both children and young people with learning disabilities and particularly their families. SCLD understands that transitions are an area of real and significant concern for the families and carers of people with learning disabilities. Findings from the parents and carers survey in ‘Facing the Future Together’ (2017)<sup>12</sup> showed that of the 270 parents and carers who completed the survey, 29% had fears about the young person’s access to further education or employment. One quote from a survey respondent highlights this:

*‘I’m very worried as I have been told due to my son’s disabilities there may be nothing in terms of a college placement or work for him, so his future looks very poor.’*

(ARC & The Scottish Transitions Form; 2017, p.37)

These concerns were reflected by a group of parents SCLD met with recently in Fife. These parents expressed concerns and anxiety related to transitions and a lack of available opportunities for their children.

The concerns of parents and carers do not however, always reflect the ambitions of children and young people. The same survey found that children and young people

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<sup>12</sup>[ARC & The Scottish Transitions Form \(2017\)](#)

with additional support needs including learning disabilities, were optimistic and hopeful about their futures.

SCLD believes that children's services planning play a vital role in supporting the ambitions of children and young people with learning disabilities with regard to their relationships, education and employment opportunities. By considering, The keys to life implementation framework in this process, planners can address systemic exclusions felt by both children and young people and their families in these areas.

### **3. Supporting the statutory guidance for children's services plans with planning resources and toolkits**

SCLD appreciates and understands the guidelines' role in explaining and outlining the legislative duties of local areas. However, as a whole the document can at times be unclear about how services will meet these duties in practice. This is particularly evident in relation to transitions and integrated service provision. While guidance correctly states that families should be able to move between services at points of transitions, there is no further detailed discussion of what that means in practice.

To address this, SCLD proposes that the statutory guidance is supported by a national planning resource or toolkit. This resource or toolkit could potentially outline examples of effective working practice in local areas. In the case of learning disabilities and transitions a national planning resource could draw on case study examples of small community run led organisations like [The Sunshine Kitchen](#) based in Fife. This voluntary organisation which provides young people with opportunities to develop work experience. The Sunshine Kitchen were a recent winner of the Learning Disability Awards 2019 in the category of [Community Enterprise](#). Case studies could also include services such as [Project SEARCH](#) sites across Scotland. Project SEARCH internationally has well documented success rates of supporting

young people with learning disabilities into paid employment which can be found [here](#).

In the case of improving awareness and planning for supported parenting services case study examples could highlight evidence from a social impact report on the Aberlour Family Service in South Ayrshire<sup>13</sup> which demonstrated the positive outcomes this type of service can have. As well as improved outcomes for families, this report estimates that this service makes an estimated £1.4 million yearly saving to public spending and an estimated saving in excess of £9 million for 10 years<sup>14</sup>.

Case studies could also draw from The keys to life development fund 'How to guides'<sup>15</sup>. This included [First-hand Lothian](#) who developed a project working with parents with learning disabilities. The project which ran from 2015-2017 worked with five families in which one or more parent had a learning disability. The role of the project was to match a family with a skilled worker who would support parents to develop their parenting skills while addressing the educational, social, emotional and developmental needs of their children. This was achieved at the relatively low project cost of £24,854.00.

SCLD welcomes the opportunity to support The Scottish Government with the collection of these types of case studies to give as examples within a national planning resource or toolkit (please refer to recommendation 3).

## **4. Ensuring robust data on children and young people with learning disabilities to support service planning**

To support a whole system approach to improving the lives of people with learning disabilities, children's services planning statutory guidance could make reference to

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<sup>13</sup> [Aberlour \(2017\)](#)

<sup>14</sup> [Aberlour \(2017\)](#)

<sup>15</sup> [SCLD \(2017\)](#)

the importance of producing plans which adequately reflect the population of children and young people with learning disabilities in each local authority. At present work is ongoing to explore the amalgamation of Learning Disability Statistics Scotland (LDSS) which compiles the number of adults with learning disabilities known to local authorities in Scotland, and collects data on demographics, service use, housing, education and employment within the SOURCE social care survey.

The amalgamation will extend LDSS data collection to all children and young people who use social care services and place the LDSS variables within routine social care data collection, increasing the value of the data through linkage with key social care data, as well as offering potential linkage with other national datasets. SCLD and the NHS Information Services Division (ISD) are working towards LDSS variables being included within the SOURCE data collection for the 2019/2020 financial year. The potential to include this data as part of children's services planning going forward should therefore be explored (please refer to recommendation 4).

## **5. Ensuring the statutory children's services plans guidance supports legislative duties to provide supported parenting services**

SCLD also welcomes attention being given to how children's services plans can address the needs of parents with learning disabilities.

A recent report by CELCIS reviewing Part 12 of the Children and Young People (Scotland) Act (2014)<sup>16</sup> demonstrated limited knowledge about statutory obligations

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<sup>16</sup> [Children and Young People \(Scotland\) Act \(2014\)](#)

to provide supported parenting services across the 32 local authority areas. As the report states:

*“There was less clarity about the need for ‘support for parenting’ as a relevant service. Many questionnaire respondents were unclear about what could be defined as a support for parenting service and requested clear guidance; for example, Many things can be defined as a ‘parenting support service’ - and not all services are equal or for that matter effective, strengths based or capable of achieving the outcomes.”*

(Hill et al; 2019, p.14)<sup>17</sup>

The same report examined all of Scotland’s children services plans. Of those examined only 3 areas (Aberdeenshire, East Renfrewshire and South Lanarkshire) children’s services plans identified Part 12 of The Children and Young Peoples (Scotland) Act (2014) as being relevant in their local planning.

Building on CELCIS’ findings, SCLD believes there is a significant opportunity within the refresh of the statutory guidance for children’s services planning to ensure that more effective planning for ‘relevant services’ as detailed under part 12 of The Children and Young People (Scotland) Act 2014.

This will be critical for parents with learning disabilities who evidence has shown:

- Are estimated to have high rates of child removal (40-60% Wilson et al<sup>18</sup> cited in (Stewart et al<sup>19</sup>)
- Are over represented on child protection caseloads across the UK and internationally (McConnell and Llewellyn: 2000<sup>20</sup>, Booth et al; 2004<sup>21</sup>)

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<sup>17</sup> [Hill, Fowler & Porter \(2019\)](#)

<sup>18</sup> [Wilson, McKenzie , Quayle, & Murray \(2013\)](#)

<sup>19</sup> [Stewart , MacIntyre, & McGregor \(2016\)](#)

<sup>20</sup> [McConnell & Llewellyn \(2000\)](#)

<sup>21</sup> [Booth, Booth, & McConnell \(2004\)](#)

- Face a range of complex barriers including professionals' negative assumptions about parenting capacity (Tarleton et al<sup>22</sup>).

Further, a need for supported parenting services to help parents establish a 'good enough standard of parenting' has been commented on in 'A Local Authority v G (Parent with Learning Disability) (2017)<sup>23</sup> in which the judge took account of the good practice guidelines for supporting parents with learning disabilities and the role in which parental rights play in accessing parenting support. As the judgment stated:

*"It is particularly important to avoid the situation where poor standards of parental care, which do not, however, meet the threshold of being of significant harm to a child, subsequently deteriorate because of a lack of support provided to the parent. A failure to provide support in this type of situation can undermine a parent's rights to a private and family life, and may also contravene an authority's disability equality duty."*

(A Local Authority v G (Parent with Learning Disability); 2017, p.25)

The value of projects which take a truly holistic and strength based approach in working with families whose children are subject to child protection cannot be underestimated. This type of approach will and does have real value in helping families navigate wider complex circumstances. As Featherstone et al (2019)<sup>24</sup> states:

*"There can be a recognition that solutions to problems are not only about individual change, but also (sometimes primary) reflect the impact of social economic environments on individuals and families."*

(Featherstone, et al; 2019, p.122)

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<sup>22</sup> [Tarleton, Ward, & Howarth \(2006\)](#)

<sup>23</sup> [Family Law Week \(2017\)](#)

<sup>24</sup> [Featherstone, Gupta, Morris and White \(2018\)](#)

SCLD believes supported parenting services are consistent with the five key aims of the children's services plan. In particular these services reflect a commitment to safeguard, support and promote the welling of children and ensuring action is taken to prevent further needs arising. SCLD welcomes a further opportunity to work with the Scottish Government to embed '*relevant services*' including supported parenting in the statutory guidance (please refer to recommendation 5).

*Question 3. Does the statutory guidance provide sufficient advice on how widely you should consult in advance of developing a Children Service Plan?*

*How could the guidance be improved to enable effective consultation and Engagement with local stakeholders during the preparation of a Children's Services Plan?*

## **6. Developing guidelines for children's services planners on active consultation and engagement**

SCLD welcomes the statutory guidance for children's services planning outlining the value of consultation and engagement in developing plans particularly with regard to '*other service providers*' and '*relevant services*'. However, SCLD would welcome additional guidelines which expand further on opportunities for local authorities and health boards to engage with children, young people with learning disabilities, their families, in addition to parents with learning disabilities.

SCLD views this as critical because people with learning disabilities are often excluded from active participation. This can be linked to people with learning disabilities historic and ongoing marginalisation as a result of institutionalisation

and social exclusion<sup>25</sup> as well as their exclusion from the wider disability rights movement and the social model of disability<sup>26</sup>.

SCLD therefore proposes these engagement guidelines make reference to positive examples of engagement and consultation with people with learning disabilities. This could include, The Scottish Borders Learning Disability Service, citizen's panels have been established. These panels are made up and designed for people with learning disabilities from the age of 14 upwards and family carers who meet 5 times a year across 5 different localities. It is the role of these citizen networks to ensure learning disability services meet individual's needs.

Other creative techniques these guidelines could reference are:

- [The Children and Young Peoples Commissioner's 7 Golden Rules for Participation](#)
- [IRISS: What is important to you?](#)
- [Talking Mats](#)

SCLD believes that clearer expectations about consultation with those the plans impact and outlining approaches for engagement will help to ensure practice meets policy intention. SCLD has a range of experience in consulting with people with learning disabilities in creative ways to best ensure active participation. SCLD would welcome the opportunity to support the Scottish Government with the development of guidelines for engaging with people with learning disabilities in children's services planning. SCLD could offer the new 'Developing a Learning Disability

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<sup>25</sup> [Hall \(2005\)](#)

<sup>26</sup> [Chappell, Goodley & Lawthom \(2001\)](#)



Strategy Guidance' (2019)<sup>27</sup> as a starting point for this work (please refer to recommendation 6).

## Summary

SCLD believes that a refresh of the statutory guidance for children's services planning should ensure children's rights are at the heart of planning. Clearer and more accessible guidance on how commitments in the UNCRC are enacted through planning will be required. Further, cohesive reporting structures and accountability should support this. To ensure the UNCRC commitments are met for children and young people with learning disabilities, the statutory guidance would benefit from a clear alignment to The keys to life implementation plan (2019-2021)<sup>28</sup>. This would improve access to the support and opportunities children and young people with learning disabilities need to meet their aspirations.

In refreshing the statutory guidance, opportunities should also be taken to embed greater awareness across local planning partnerships about the need and role of supported parenting services for parents with learning disabilities who face significant barriers in having and raising their own children.

By making these changes and supporting this with supplementary resources and toolkits which evidence good practice and guidelines on engagement, SCLD believes the process of children's services planning across Scotland can become more cohesive. This will mean that families avoid a post code lottery of service provision and will ensure plans are the most effective for children and young people and the families they serve.

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<sup>27</sup> Available from SCLD

<sup>28</sup> [The keys to life \(2019-2021\)](#)

## Recommendations

- 1.** The statutory guidelines for children's services planning should give clearer expectations, guidelines and structure regarding ensuring children services plans support children and young people to enact their rights in line with the UNCRC
- 2.** The statutory guidelines should be aligned to The keys to life implementation framework (2019-2021) to include wider policies and frameworks. This should include a focus on key themes living, learning and working
- 3.** The Scottish Government should work in partnership with SCLD and other relevant organisations to develop a planning resource or toolkit which includes case study examples of good practice in key areas of issue for people with learning disabilities such as transitions and parenting
- 4.** The Scottish Government explores the potential of the statutory guidance for children's services planning asking local authorities to include an amalgamated LDSS and SOURCE Survey information on children and young people with learning disabilities as part of service planning
- 5.** Embed the statutory obligation under Part 12 of The Children and Young People (Scotland) Act (2014)<sup>29</sup> to provide supported parenting services in statutory guidance for children's services planning
- 6.** The Scottish Government works collaboratively with SCLD to produce guidelines on effective consultation and engagement as part of children's service planning.

SCLD thanks the Scottish Government for the opportunity to respond to this important consultation.

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<sup>29</sup> [The Children and Young People \(Scotland\) Act \(2014\)](#)

## Appendix 1: Consultation with Parents with Learning Disabilities about Children Services Planning at the Working Together with Parents Network Meeting (29/5/19)

At the network meeting we asked two small groups to 'Build a Children's Services Plan'. 4 of the participants in group 1 were professionals and 1 was a parent with a learning disability. 2 of the participants in group 2 were professionals and 2 were parents with learning disabilities.

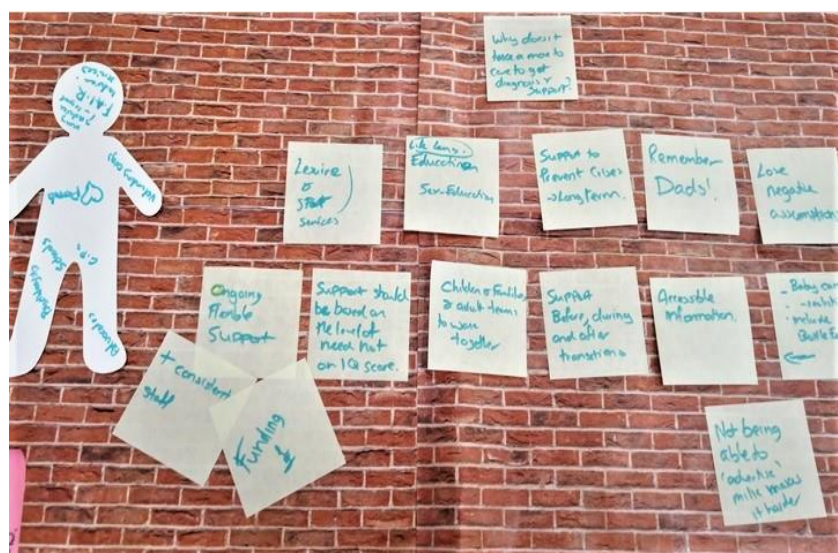


Figure 1 Illustration of one group's outline of what should be included in children's services plans

The following outlines the key themes both groups believed to be important when developing a children's services plan:

- The value of an asset based approach to support
- The need for more accessible information for parents with learning disabilities
- The need for increased advocacy for children and young people
- The need for support which prevents crisis (Early Intervention)
- The importance of support that works across transitions and which is intensive at particular points
- The need for practical support (How to parent)

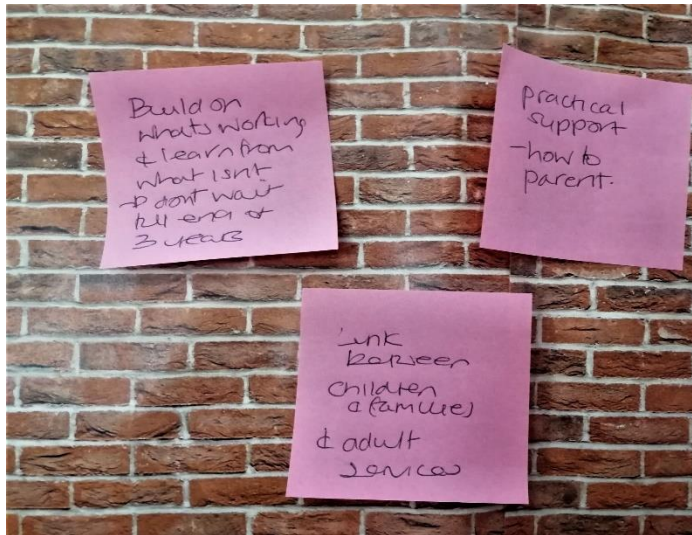
- The value of joined up services (Children and adult services working together to support families where the parent has a learning disability)
- The need for funding for flexible community based support services
- The values of peer support groups for parents which give them the opportunity to talk about the challenges of being a parent.



Figure 2 Comments from one group about the importance of relationship based practice for both children and young people as well as families

There were a number of comments regarding the importance of relationship based practice in relation to working with both Children and Families. One parent said that it was important that there was 'a go to person' or 'someone to talk to' for children and young people. There were also comments about having more accessible groups for children and young people with learning disabilities to take part in

activities like drama or karate and that there was a role for groups that work with children and young people more widely on disability awareness.



*Figure 3 Comments from one group about improving support for parents with learning disabilities*

Both groups commented on the importance of supporting the whole family, particularly where one or more parent in the family had a learning disability.

Both groups also highlighted the importance of being able to access support based on need and not on formal IQ assessments (these comments were in relation to

both services for parents and services for children and young people).



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