

The legal framework (Appendix 2)

England

For current guidance on safeguarding, legislation and resources see [GOV.UK](https://www.gov.uk). Two documents are particularly helpful:

- [What to do if you're worried a child is being abused \(2015\)](#)
- [Working together to safeguard children: a guide to inter-agency working to safeguard and promote the welfare of children \(2015\)](#)

Safeguarding Vulnerable Groups Act 2006 (SVGA 2006)

Under the SVGA 2006 (as amended by the Protection of Freedoms Act 2012), organisations engaged in Regulated Activities (see Definitions below) must not employ persons barred from carrying out such activity by the Disclosure and Barring Service (DBS). They must ensure that all individuals employed to work with children or vulnerable adults obtain an enhanced DBS check and a check against the relevant barred list. There are criminal sanctions for knowingly employing a barred individual. An employer removing someone from a Regulated Activity for causing harm or creating a risk of harm is also under a legal duty to make a referral to the DBS.

Regulated activity under the Safeguarding Vulnerable Groups Act;

Relating to children, is paid and unpaid work that involves certain close interaction with children or, in specified places, the opportunity for contact. It also covers the work of certain office holders whose functions relate to services provided for, or in relation to, children. The following would be regulated activities relating to children if carried out frequently i.e. once a week or more, on an ongoing basis:

- Teaching, training or instruction.
- Care or supervision.
- Advice or guidance.
- Public electronic interactive communication service.
- Conveying (transporting) children.

Relating to vulnerable adults each of the following is a regulated activity and only needs to be done once to be covered:

- The provision of health care by, or under the direction or supervision of, a health care professional.
- The provision of relevant personal care.
- A social care worker's provision of relevant social work to a client or potential client.
- The provision of assistance in relation to general household matters which is required by reason of age, illness or disability.
- The provision of any relevant assistance in the conduct of an adult's own affairs.
- The conveying of adults who need to be conveyed by reason of age, illness or disability by prescribed people in prescribed circumstances.

Children Acts 1989 and 2004

The Children Acts establish the principle that the welfare of the child is paramount and place a duty on local authorities and other key organisations such as the NHS, police and educational bodies to promote and safeguard the welfare of children in need in their area. The Acts give emergency protection powers to the courts and police.

The Equality Act 2010

The [Equality Act 2010](#) outlaws less favourable treatment of those who have protected characteristics - including age and physical / mental disability - in the provision of goods, services or facilities. In addition to general obligations not to discriminate, victimise or harass, there is a positive duty to make reasonable adjustments to procedures, policies and practices that put disabled service users at a substantial disadvantage compared to others.

Mental Capacity Act 2005

This protects and supports persons who may lack mental capacity, whether due to a severe learning disability, mental health condition, a brain injury or conditions like dementia. It introduces the concept of the lasting power of attorney, which allows a person to appoint someone to make decisions about their health and welfare, finances and property if they become unable to do this for themselves.

Data Protection Act 1998 (DPA)

UK [data protection law](#) is primarily governed by the DPA which sets out eight data protection principles and while all will apply to the processing of personal data, the following may be more relevant to the processing of a child or vulnerable person's data:

- Personal data must be processed fairly and lawfully (first data protection principle).
- Organisations may only process personal data that is relevant, adequate and not excessive for the purposes for which the data is being processed (second data protection principle).
- Data should only be retained for as long as needed (fifth data protection principle).
- Data must be processed in accordance with the rights of the data subject (sixth data protection principle).
- Data must be kept safe and secure (seventh data protection principle).

NB - the DPA it is not a barrier to sharing information where a failure to do so would result in a child or vulnerable adult being placed at risk of harm. The most important consideration is whether sharing information is likely to safeguard and protect the individual.

The Care Act 2014

Local authorities and other organisations now have statutory safeguarding duties that apply equally to all adults with care and support needs, regardless of whether those needs are being met, whether the adult lacks mental capacity or not, and regardless of the setting, other than prisons and approved premises. The Act requires LA's to set up a Safeguarding Adults Board.