A REPORT ON
THE MOVING AND
HANDLING OF
CHILDREN AND
YOUNG PEOPLE
WITH DISABILITIES

HANDLE WITH CARE

Scotland's Commissioner for Children and Young People

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Laura Paton
February 2008

“WE ARE PEOPLE, AND NOT JUST THINGS TO BE HANDLED.”

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Sometimes, something one person says can make a difference.

On my first day in the job as Commissioner, a young person who used a wheelchair told me of some of the challenges she faced in everyday life. She attended a mainstream school. When her condition caused her to slide down into one side of the chair, staff would refuse to help straighten her up because it was, they said, “against health and safety”. This left her in a position that she described as not just uncomfortable, but sometimes painful. She would have to phone her Dad to come up to the school and put the situation right.

The very substantial report we are now publishing is the work of Laura Paton, Policy Development Officer who, along with her extensive desk research, has consulted children and young people, their parents and carers, professionals and professional organisations. It was important to all of us that the voices of children and young people were central to this work. This is not only a legal duty in terms of the UN Convention on the Rights of the Child and the Act of the Scottish Parliament that established my office, it is also a core value of our work and something that we know from experience is essential to identification of critical issues and effective solutions.

The young people told us how moving and handling issues affected their lives, their dignity, their ability to take part in leisure activities and their aspirations for the future. This tied in well with my office’s Safe, Active, Happy Action Plan, launched at the Scottish Parliament in May 2006. A central aim of ‘Handle With Care’ is to promote a safe, active and happy life for young people with physical disabilities.

The report will have wider relevance too. Although it has arisen out of concern for the rights of young people and is coloured by their voices, the insights and recommendations will also be helpful for people of all ages who live with disability.

Moving and handling is only one small element of the challenges faced by people with disabilities, but it is a very significant one. It is essential that the issues raised in this report are addressed if we are to promote the kind of dignity, respect and inclusion to which public statements and policies aspire.

Our recommendations are addressed to all those involved in the regulation of moving and handling at both Scottish and UK levels and to all those involved in the delivery and monitoring of services to children and young people with disabilities. There can be a complex interface between matters devolved to the Scottish Parliament and those reserved to Westminster, when Westminster laws are interpreted and applied within devolved contexts such as education, health or social work. Young people are entitled to expect their issues to be addressed with their whole humanity as the focus. This report focuses on them as people rather than as bundles of separable issues, and it directs its conclusions and recommendations accordingly. I commend them to the Scottish Parliament to whom I am primarily accountable, and to all other interested and significant parties. And I give my heartfelt thanks to all who have contributed to this report, especially the young people and their carers who have, often very movingly, recounted their experiences to us.

Kathleen Marshall
Scotland’s Commissioner for Children and Young People
EXECUTIVE SUMMARY

Background

In the context of this report, ‘moving and handling’ refers to any activity involving supporting, lifting, putting down, pushing, pulling, carrying or moving children or young people with disabilities. Such activities may be carried out by hand or using bodily force, or in conjunction with handling equipment (such as a hoist).

While some children and young people with disabilities require minimal physical assistance, others require assistance for all moves, sometimes needing more than one carer’s help.

The Commissioner has heard from a number of children and young people with disabilities and their parents about moving and handling. The children and young people describe feeling embarrassed, humiliated, undignified and excluded because of moving and handling difficulties. They say they are prevented from taking part fully in school and are unable to enjoy extra-curricular or other leisure activities.

They attribute these difficulties to attempts to avert all risk and to protect the worker providing moving and handling assistance without having regard to the rights and needs of the young person.

On the other hand, workers providing moving and handling assistance tell us that they feel unable to deliver the service they would like. They feel constrained by what they see as inflexible regulations and a lack of support and resources.

Methodology

To find out more about their experiences of moving and handling, SCCYP carried out a series of focus groups with children and young people, parents and practitioners. SCCYP also reviewed moving and handling law and policy and conducted a survey of all 32 local authorities in Scotland on how they put this law and policy into practice.

The results of our research were brought together in this report along with recommendations to improve practice.

What children and young people had to say...

While some of the children and young people we spoke to reported few or minor difficulties as a result of moving and handling practice, the majority said that they had experienced significant difficulties, many of which remained unresolved. Inadequate moving and handling practice has a significant impact on their day to day lives and is a frequent source of concern.

A number of common themes emerged from what children and young people told us including:

- a loss of dignity as a result of moving and handling;
- a loss of independence;
- failure to treat young people as individuals;
- a lack of involvement in decision making;
- concern about the use of hoists and other equipment;
- young people feeling responsible for the health and safety of workers;
- difficulties in accessing leisure activities; and
- embarrassment at the intimate nature of moving and handling assistance, particularly where help is provided by a stranger.

What parents and carers had to say...

The parents and carers who spoke to us highlighted the difficulties they encounter on a daily basis due to moving and handling and how often systems designed to help them become an added source of anxiety.

Their experiences were varied, highlighting significant inconsistencies in moving and handling practice. However, several common themes did arise, including:

- poor attitudes towards children and young people with disabilities, particularly a failure to see them as rights-holders;
- a desire by service providers to limit all risks, driven by a fear of litigation;
- a focus on the health and safety of employees at the expense of the rights and needs of children;
- confusion as to relevant law and policy on moving and handling and uncertainty as to what constitutes good or bad practice;
- while parents and carers routinely carry out moving and handling tasks for their children, they receive little or no training;
- a failure to involve the parent in risk assessments and decision making;
- significant delays in receiving appropriate equipment or in having adaptations made to their homes;
- lack of accessibility in schools and other public and leisure facilities; and
- a failure by schools to include their child in extra-curricular activities, for example, school trips.
Many of the parents and carers who spoke to us described how much they value the support and commitment of many of those employed to work with and care for their children. Workers are often significant contributors to a child’s physical and emotional well-being.

**What practitioners had to say…**
The practitioners who spoke to us expressed a desire to improve the service children and families receive but they identified multiple barriers to doing so. These included:

- problems with training and equipment;
- uncertainty about the law;
- difficulties in complying with organisational policies;
- a failure to take responsibility or leadership for moving and handling within an organisation;
- moving and handling being seen as a low priority;
- the need for more multi-agency working; and
- a lack of resources.

Many practitioners also gave examples of good practice and expressed a desire to learn about good practice in other organisations.

**Law and policy**
Moving and handling issues affecting children with disabilities are set within a wide-ranging and often complex legal and policy framework. This framework encompasses health and safety law, children’s rights, the provision of children’s services and disability discrimination.

Organisations, workers and service users can find the statutory framework confusing, inaccessible and unclear. A number of codes of practice, good practice guides or organisational policies seek to provide clarification, but the approaches taken in each vary and can even be contradictory.

**Local authority policy and practice**
SCCYP’s survey of moving and handling policy and practice in all Scottish local authorities covered issues such as training, risk assessments, the involvement of children and young people and their parents in policy and decision making, complaints procedures and advocacy arrangements.

Generally, the survey results revealed wide variation in moving and handling practice including some practice that did not always accurately reflect law or national policy. Many local authorities noted, however, that they are actively looking for assistance to improve practice and to deliver better services to children and young people with disabilities. The survey also uncovered examples of good practice.

Although some common themes were found in local authority policies on moving and handling, there was variation in terms of format, content, the approach taken and the national policy or practice model on which they were based. Few policies were specific to children and some authorities had no policy at all. Some policies made no distinction between the moving and handling of objects and people.

There was significant variation in the nature of training, its length and frequency, and in the training provider. Some authorities had comprehensive training programmes in place. Few authorities provided training tailored to the needs of children and young people.

While user-involvement in risk assessments was generally high, the approach taken differed in each authority. Some authorities viewed the child and/or parent as integral to the risk assessment team, while others allowed for minimal, if any, user-involvement. The majority of authorities did not involve service users at a strategic level in, for example, the development of moving and handling policies.

The survey also invited local authorities to identify the barriers they face in implementing moving and handling law and policy and to make suggestions as to how those barriers could be overcome. Barriers included lack of clarity and information about the law; staff turnover and absence, and the availability of appropriately trained staff; the lack of multi-agency working; financial constraints; issues around equipment; and environmental factors, such as unsuitable school buildings.

Authorities made a number of suggestions on how to overcome these barriers including raising the profile of moving and handling; more information in the form of guidelines or best practice models that are appropriate to the settings in which they work; dedicated moving and handling staff within authorities; and improved co-ordination through multi-agency working.

**Conclusion**
Our research has shown that moving and handling issues can cause significant disruption to the lives of children and young people and their families. Poor practice may result in breaches of children’s rights, is detrimental to their welfare and limits their enjoyment of life.
Our research also shows that good practice is possible and is already happening in some areas. Where this is the case, practitioners providing moving and handling assistance contribute to children’s physical and emotional welfare, helping to maximise their mobility and independence.

As well as the specific recommendations set out below, many other steps can be taken to address difficulties around moving and handling. We urge central and local government and all service providers to consider our findings and explore how they can contribute to the well-being of children and young people with disabilities.

**Recommendations**

**Law**

1. The substance of the law set out in Acts of Parliament does not require amendment. It just needs to be made better known and be better explained to professionals and the public, including young people.

2. Consideration should be given to amending regulations governing the manual handling of ‘loads’ so as to clearly distinguish between the handling of persons and inanimate objects, and to take account of the additional factors involved, that is, the need to balance health and safety concerns with the rights and dignity of the person receiving assistance.

**Guidance**

3. National guidance, applicable to all contexts, should be produced to emphasise that practice must be consistent with the human rights and dignity of the person being moved and must take their views and preferences into account. It should acknowledge that agencies might wish to develop guidance specific to their own context, but should insist that this must be consistent with the national guidance.

4. The national guidance should:  
   a) Prohibit blanket ‘no lifting’ policies.  
   b) Address the training of workers.  
   c) Address issues specific to children, for example, the need to communicate in an appropriate way, to involve parents as appropriate and the need to regularly review the child’s moving and handling needs to take account of their growth and development.  
   d) Be developed in association with stakeholders including service users.

**Practice**

5. Service providers should review and monitor their policies to take into account the conclusions and recommendations of this report, even in advance of the production of new national guidance.

6. Service providers should ensure there are clear lines of responsibility and accountability for moving and handling, and should consider appointing a person to lead on this issue.

7. Care plans, risk assessments and fire evacuation procedures must be realistic and their development must involve the service user. Service providers should acknowledge that individual care plans that are too risk averse or insensitive to the rights and feelings of the person receiving the service may be ignored in practice. This may make both service users and workers more vulnerable to injury or liability.

8. Service providers should ensure staff are trained and that training is updated regularly. They should consider providing training that is specific to the needs of children and young people and that includes aspects such as disability awareness.

9. Service providers should provide training on moving and handling for parents and carers as well as for workers.

**Practical measures**

10. Consideration should be given to the standardisation of hoists and slings and other mobility equipment, either through agreement with manufacturers or through purchasing decisions across Scottish agencies.

11. In the planning of new buildings and facilities, such as schools or leisure centres, regard must be had to their accessibility, to involving service users in their design and to ensuring they are appropriately equipped to meet the needs of service users. In particular, adequate toilet facilities must be made available.

12. Service providers should adopt a positive, problem-solving approach to resolving any disagreements over the moving and handling assistance to be provided. This approach should involve the child or young person and parent. However, as a last resort, service providers should have a complaints procedure that is accessible to children and young people and to parents. If the complainant is a child or young person, they should be provided with advocacy support to make their complaint.
ABOUT SCCYP

The office of Scotland’s Commissioner for Children and Young People was established by the Commissioner for Children and Young People (Scotland) Act 2003.

The general function of the Commissioner is to “promote and safeguard the rights of children and young people”. In particular, the Commissioner must review law, policy and practice relating to the rights of children and young people with a view to assessing their adequacy and effectiveness. Specific regard must be had to any relevant provisions of the United Nations Convention on the Rights of the Child, especially those requiring that the best interests of the child be a primary consideration in decision making, and that due account be taken of the views of affected children and young people.

The Commissioner must exercise this responsibility towards all children and young people in Scotland who are under 18 years of age, or under 21 if they have at any time been in the care of, or looked after by, a local authority.

1 ‘Service providers’ should be interpreted as all organisations providing moving and handling assistance as part of its service to children and young people. This could include local authorities, health boards, voluntary sector organisations, independent schools etc. It also includes service providers in the private sector.
“People at the top who decide these rules have to know the impact they can sometimes have on families.”
CHAPTER 1: Introduction

1.1 What is moving and handling?

In the context of this report, the term 'moving and handling' refers to any activity involving supporting, lifting, putting down, pushing, pulling, carrying or moving a child or young person. Such activities may be carried out by hand or using bodily force, or in conjunction with handling equipment (such as a hoist). Examples of moving and handling activities, or ‘manual handling’ as it is also described, include:

- transferring a child from a wheelchair to the toilet;
- repositioning a child in bed;
- lowering a child from a chair to a floormat;
- lifting a child on to a changing plinth; or
- hoisting a child into the bath.

While some children and young people with disabilities require minimal physical assistance, others require assistance for all moves, sometimes needing more than one carer’s help. Moving and handling may take place wherever the child goes: not only does it take place at home, in school or in hospital, but also during leisure activities, at shopping centres, or on holiday. Moving and handling can be carried out by a range of people including learning assistants, social care workers, nurses and foster carers, as well as the child’s own parents.

1.2 Why is the Commissioner looking at moving and handling issues?

Since taking up office in 2004, the Commissioner has heard from a number of children and young people with disabilities and their parents about the impact of moving and handling on their day to day lives. The children and young people describe feeling embarrassed, humiliated, undignified and excluded because of moving and handling difficulties. They say they are prevented from taking full part in school and unable to enjoy extra-curricular or other leisure activities. Children and young people and their parents often attribute the difficulties they experience to attempts to avert all risk and to protect the worker providing moving and handling assistance without having regard to the needs and wishes of the young person. At the same time, workers providing moving and handling assistance tell us that they feel unable to deliver the service they would like to children and young people and their families. They feel constrained by what they see as inflexible regulations and a lack of support and resources.

The moving and handling issue has been raised with us in a series of phone calls and emails to our office from different families and the extent of the problem was reinforced when it was raised again by various organisations during a consultation on our policy priorities conducted in 2005/06.

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1. A hoist is a mechanical device used to aid lifting. A range of hoists are available and they can be manual or powered. For an illustration of a hoist, see page 32.

2. The number of children in need of moving and handling assistance is not known nationally although public authorities including local authorities or health boards may possess sufficient information to identify the majority of those receiving moving and handling assistance in their local area.
1.3 What have we done?

After being contacted by several children and young people and parents about the difficulties relating to moving and handling, it became clear to SCCYP that these were not isolated cases but were representative of widespread confusion and uncertainty about moving and handling law, policy and practice. We therefore decided to carry out further research and to draw our findings together in this report along with recommendations to improve practice.

To gather more information about the experiences of children and young people, parents and practitioners, we held a series of interviews and focus groups. Chapter 2 describes what they told us.

Aims
In carrying out our work on moving and handling, our aims have been:

• to research the experiences of children and young people, their parents and practitioners;
• to map and compare moving and handling law, policy and practice;
• to identify barriers to good practice;
• to raise awareness of moving and handling issues; and
• to encourage good moving and handling practice and improve the experiences of children and young people.

Chapter 3 sets out the law and policy relating to moving and handling including the relevant health and safety regulations. It also considers moving and handling within a children’s rights context, setting out the general rules and principles that apply to all decision and policy making about children and young people.

As local authorities are largely responsible for implementing moving and handling law and policy affecting children and young people, we carried out a survey of all Scottish local authorities. Our survey asked for information about moving and handling policy and practice and sought to uncover examples of good practice at a local level. The analysis of the survey responses is presented in Chapter 4.

After reviewing national law and policy, it soon became clear that it was not being reflected in the practice described to us by children and young people, parents and even practitioners themselves. Although the local authority survey revealed some examples of good practice, it also highlighted a number of areas in which implementation of law and policy could be improved.

Throughout our research, we contacted relevant organisations from the statutory and voluntary sectors to discuss our findings and to explore how our work could be taken forward. In Chapter 5, our report concludes with recommendations on how the moving and handling difficulties identified in our research can be addressed to improve the experiences of children and young people. We believe it is vital that these recommendations are acted upon so that the rights of children and young people with disabilities are fully realised.

Dignity in practice: reflections on moving and handling
A short film featuring children and young people, parents and carers talking about their experiences of moving and handling is available from the SCCYP office.
Examples

A young person attending a mainstream school reported that her care assistants refused to adjust her position in her wheelchair. They claimed health and safety legislation prevented them from lifting her. The young person was left feeling uncomfortable and unable to concentrate during class. She resorted to asking her father to come into school to adjust her.

Some young people have developed dangerous ‘coping’ behaviour – to ensure they fall within prescribed weight limits so they can be lifted, they maintain a very low body weight.

A parent reported that a risk assessment carried out in relation to her son required that he be hoisted for all moves at school. The hoisting process took up most of his school day, leaving little time to learn.

The friends of a young wheelchair-user were told they were not allowed to push his wheelchair. Instead, an adult must do it. This meant the children were always in the presence of an adult, even when playing.

A young child with mobility difficulties was unable to participate in events taking place in the school assembly hall as it was accessed by three steps. The carers refused to lift the child up the stairs saying they were prohibited by the authority from lifting of any kind.

A young student says that her college has a hoist it keeps in a cupboard. When she needs to go to the toilet, she and her carer must collect the hoist and pass through the corridor to the bathroom in view of the other students.
“Health and safety, moving and handling and risk assessment issues have made me feel even more dependent, excluded and detached.”
CHAPTER 2: Views on Moving and Handling

To find out more about people’s experiences of moving and handling and to identify key issues and possible solutions, we consulted with children and young people, parents and carers, and practitioners.

We talked to children and young people and their parents about how moving and handling impacts on their day to day lives and asked them about their experiences – both good and bad. We also asked them what, if anything, they would like to see changed. We also met with moving and handling practitioners from a range of sectors to find out their views on moving and handling, good practice and barriers to implementing good practice.

2.1 Consultation with children and young people

We held two focus groups with children and young people. The first took place at Corseford School in Renfrewshire, a school providing specialist education for children and young people with complex physical support needs. The nine children and young people involved in this focus group were aged 13 to 18. The second focus group was organised through Playback, a voluntary organisation which carries out consultation with children and young people with disabilities and their families. This focus group took place in Edinburgh and was attended by 10 young people from both Edinburgh and Ayrshire aged between 10 and 20. The young people attending the Playback focus group were also given the opportunity to complete a questionnaire regarding moving and handling.

In addition, we held one-to-one interviews with two young people aged 12 and 17. We also received written submissions from three young people which set out some of their thoughts and experiences on moving and handling.

All of the children and young people had physical and/or mobility difficulties and required assistance with daily activities. The extent of the assistance that each young person required varied from occasional to constant assistance or, as one young person described, “every move, every where”.

2.2 What the young people said

While some of the young people reported few or minor difficulties as a result of moving and handling practice, the majority said that they had experienced significant difficulties, many of which remained unresolved. For them, inadequate moving and handling practice had a significant impact on their day to day lives and was a frequent source of anxiety and concern.

A number of common themes emerged from the experiences and views they shared with us, including a loss of dignity as a result of moving and handling; a loss of independence; a lack of involvement in decision making; concern about the use of hoists and other equipment; and difficulties in accessing leisure activities. These themes, and others, are outlined in further detail below.

Dignity

The issue most commonly raised by young people regarding moving and handling was dignity – the lack or loss of dignity while being moved. They repeatedly referred to feeling embarrassed or humiliated.

“I have no choice in this matter, I have no dignity and I feel I have no respect.”

“There’s no balance – they don’t think about my dignity, my rights or what I prefer.”

“My feelings seem to be irrelevant, unimportant and ignored.”

For many, this loss of dignity was particularly acute when being hoisted.

“The hoist is so undignified... you feel trussed up, like a turkey.”
“The full sling hoists are very undignified because you are hanging there in mid-air and you feel like cargo... it feels like you are being hauled, like a cargo load or something.”

“When I go to college, I don’t like the carer walking beside me with the hoist. It’s embarrassing.”

“The college has four toilets but one stand aid. By the time they found it, I'd wet myself. It's not the first time. I have to go back to class like that. They just don’t understand how this makes me feel. Where’s the respect and dignity?”

As well as the overwhelming sense of indignity, some of the young people who spoke to us reported other negative feelings associated with moving and handling:

“Health and safety, moving and handling and risk assessment issues have made me feel even more dependent, excluded and detached.”

Individual preferences
What is abundantly clear from the consultation with young people is that each has their own preferences when it comes to receiving physical assistance. Asking them what these preferences are and what they feel most comfortable with is therefore essential to ensuring good moving and handling practice. As one young person said during a focus group, “everybody is an individual so what works for me might not work for others.”

“When they’re lifting me, I like it when they tell me what they’re doing.”

“When they’re lifting me, I like it when they ask me how I feel and if I’m happy with what they’re doing.”

“Sometimes I have problems with my carers. They push me from the back so I can’t see them. I like them to go in the front. And I don’t like going too fast in the hoist.”

Involvement in decision making
Being involved in decision making can take place at two levels. Firstly, the child or young person should be involved in decisions about their own care, for example, in the care planning and risk assessment processes. The law demands that a service user participates in the risk assessment and has the opportunity to express their views and preferences. However, the majority of the young people who spoke to us said that they were not involved in risk assessments and decisions about their care. Such was their lack of involvement, many young people failed to realise the risk assessment was about them. When asked the purpose of the assessment, they tended to respond that it was for the benefit of the carers or staff.

“I've not been involved in risk assessments. I think they just focus on the worker.”

For those young people who had been involved in the risk assessment process, some said they were unsure as to how their involvement affected the outcome while others did not enjoy the process and felt labelled by it.

“Because I have cerebral palsy I automatically need A, B, C or D.”

“I felt labelled and suddenly turned into a series of tick boxes.”

On the other hand, some young people were extremely positive about their involvement in the risk assessment process and the outcome.

“They asked me if I like using a standing turntable – I said you don’t feel comfortable and it feels wobbly and the assessor said she totally understood. My mum made sure it was someone that understood my disability.”
Secondly, the child or young person should be an active participant in their care on a day to day basis. All too often, the young people told us of feeling like an object to be moved from place to place by staff who are pressed for time and who do not take a moment to properly engage with them.

“I need to tell them all the time that I prefer to lie back... it gets really annoying. They’ve been working with me for a long time.”

“They don’t speak to you, they just get on with the job in hand and that’s it.”

“I am no longer an individual.”

One young person who is usually quite independent found it difficult on the rare occasions when she did need assistance. She said that the carers would just take over and move her, without talking to her first. She found this loss of control difficult and says there needs to be a better understanding that, “we are people, and not just things to be handled.”

In some cases, rules or policies are applied which effectively remove the child or young person’s choice or ability to have control over simple aspects of their lives that others take for granted. For example, one young person who has to be hoisted when using the toilet at school is only permitted to use the toilet at set times.

In some cases, failing to listen to what a child or young person has to say can even result in physical pain and distress.

“When I was in hospital the last time, I had no choice: I had to be hoisted. The nurses wouldn’t even entertain the idea of lifting me because they would get disciplinary notices from their bosses... When they hoisted me into my bed, I wasn’t positioned properly because they weren’t used to me. Even though I tried to tell them what I needed it was difficult to express it...

So I ended up straining muscles all down one side of my back because I had been in the wrong position in my bed and in the hoist.”

The extent to which children and young people are involved in their care varied according to the setting. A number of the young people who took part in our consultation attend special schools. They reported good practice at school and focused instead on problems experienced at home or in the community. In contrast, the young people who attended mainstream schools were far more likely to report problems, with many citing a failure to listen as a key grievance.

**Hoists and other equipment**

Hoisting was a major source of concern for many of the young people who took part in the consultation. This was due to a range of factors, including feelings of discomfort, fear of being left in the hoist too long and the length of time it takes to use the hoist.

“I don’t like the pool hoist – I find it a bit scary. But I just get on with it.”

“It reminds you of how much help you need.”

As mentioned above, many young people felt undignified while using a hoist. Several agreed when one young person said:

“All staff should go in a hoist so they know what it feels like!”

However, some young people were not averse to using a hoist, provided it was used in the way that was most comfortable for them.

“You feel safe on the hoist.”

“I feel comfortable in the hoist and confident.”

“I like it when the sling is adjusted properly and it doesn’t dig into me.”

During the consultation, several other equipment-related issues were raised.
For example, a number of young people said their schools did not have the necessary equipment, or they experienced frustrating delays while waiting for the correct equipment to be delivered.

“I had to wait a long time for the college to get the right equipment and they needed staff training. Even though it was a new building, they had to install the equipment. It made me feel very annoyed at first, but I was lucky to get to go to the college that I wanted to go to...”

One young person described a distressing situation in which a chair lift at school broke down while she was using it. She was stranded on the chair lift with staff unable or unwilling to help her off. After three hours, during which she wet herself, she was rescued by the fire brigade.

One young person described her frustration at the various types of equipment and the fact that staff are often trained on a particular kind (such as the equipment supplied by a particular manufacturer), but are then unable or not allowed to transfer that knowledge to other types of equipment.

One issue which was raised repeatedly during the consultation was the over-reliance on equipment. Several young people said that they were able and preferred to use a stand aid, rather than being hoisted. This not only increased their feelings of independence but also has a physical benefit – if they do not use what ability they have to stand, they often lose it. Despite these physical and psychological benefits, one young person described the struggle to get the equipment she needs, stating that “the battle to get a stand aid at home is still going on.”

“College have let me use my stand aid which is preferable as I am using my legs and it makes me feel more dignified – I feel like I am a normal person, not a bag of potatoes.”

Sense of responsibility

The consultation highlighted that many young people in need of moving and handling assistance are very much aware of the demands that this places on those who care for them. Several stated that they felt responsible for the health and safety of the adults around them, including family members and those who are employed to care for them.

“I’m afraid that my carers will get hurt and it’ll be my fault.”

“I’m scared to ask for help with moving or lifting sometimes – I don’t want the carers to get into trouble.”

Some of the young people who spoke to us felt that they themselves bore responsibility for assessing the risks involved in moving them. Unsurprisingly, they found this to be a heavy responsibility:

“I have made my Dad promise me that as soon as he feels that he can’t lift me anymore he will stop. You end up between a rock and a hard place because you don’t want to use the hoist, but you are afraid of what the consequences might be for the people who are lifting you. So you are stuck between making the choice between doing what feels right for you and putting other people at risk. It’s a difficult choice to have to make.”

Basically, because of the rules we are the ones that are ending up trying to find the balance between wanting to keep the people that are looking after us safe and wanting to feel safe and comfortable ourselves. We are the ones who have been given the responsibility to find that balance and I don’t think that’s fair.”
Leisure activities

During the consultation, almost all the young people noted that moving and handling impeded their ability to take part in leisure activities or to participate in outings either with their families or with schools.

The activity the young people were generally most enthusiastic about was swimming, but although many loved it, they could not always take part regularly. Often this was due to a lack of adequate changing facilities or the absence of the necessary equipment.

“Swimming is great. We get to do it every three weeks.”

“I love swimming but I don’t go very often. The disabled changing rooms at the pool are not big enough. I have to use another room which is further away from the pool... I end up getting cold and seizing up as it takes so long to get out of the pool and to get there to change.”

The lack of adequate changing facilities at swimming pools reflected a wider issue raised in the consultations with young people, their parents and professionals. They all stated that all too often, accessible toilets or changing facilities are not in fact suitable for many young people with disabilities.

“I am a typical 18-year-old girl, and like to go out shopping. If I want to shop then because my carers are not allowed to do any manual lifting and because there are no facilities for my personal care, I have to wear a pad. I hate it – but I have no choice. These centres have accessible toilets, but not changing areas or hoists or even a stand aid.”

Several young people also reported difficulties during school trips or on outings with youth groups. On some occasions though, these difficulties were resolved by staff committed to including the young person.

“I was supposed to go to Scout camp but they didn’t want to take the hoist. I found it really difficult and was upset and angry. They came round in the end though.”

Identity of carer

During the consultation, the young people were asked about the various settings in which they received physical assistance and about the people who assisted them. Unsurprisingly, given the intimate nature of the assistance being provided, most young people said that they preferred being helped by a parent or other family member. At the least, they preferred being assisted by someone they know and with whom they have an on-going relationship. Several young people stressed the importance of having a good, open relationship with the carers.

“When Dad lifts me into the pool at home I feel safe.”

“Sometimes when my carers are at home, sometimes they’re only in for a certain amount of time like for bathing and I feel that I’ve just got into the bath. It’s different with my mum. With my mum, I can just sit for as long as I like.”

“I like it best when I know the person who’s doing the hoisting. It’s sometimes sore but I tell them and they listen.”

“For me that’s really daunting, the fact that a stranger was helping me.... when someone comes along and starts doing stuff for you that maybe you don’t have a very close relationship with, it can be frightening.”
“I don’t like being lifted by people I don’t know.”

“Sometimes they don’t talk to you. They just get on with the job. It feels awkward. This sometimes happens at home, mostly with the carers.”

“I can actually do standing transfers but it has to be with somebody that really knows me, because if they don’t know me they have to realise that I’m a bit slow at standing up. If somebody knows me, it is easier. If they do it too fast, I collapse whereas if they do it slowly, I do actually stand.”

While accepting of the fact that sometimes they would have to have new carers, some young people were frustrated at the sheer number of carers they had had. They noted how difficult this could be at the beginning, before they got used to the new person and got to know them.

One young person said they liked being lifted by, “any person who knows me well – it can be embarrassing to start with.”

“I don’t like it when I get a new carer and they try to lift me the wrong way two or three times.”

“I find the constant changes with domiciliary care frustrating and time consuming.”

One young person was frustrated by the fact that she had no say in who her carers are. Another young person felt she had addressed this problem by making use of direct payments¹ and employing carers of her own choosing.

“I feel comfortable telling my carer how I feel and getting the support I need because I employ my own carers through direct payments. It gives me a lot more freedom.”

Awareness and understanding

Some young people were frustrated by the lack of knowledge, awareness and understanding shown by those employed to work with them, whether it be at home or at school. This was linked to points made above regarding some staff’s failure to listen to what the young people had to say. It should be noted however that many of the young people were extremely positive about their relationships with those who care for them. One young person said she regarded her carers as “friends rather than support workers.”

Making a complaint

During the consultation, the young people were asked what they would do if they were unhappy with the moving and handling assistance they were receiving. The majority said they would tell their mum, although some said they would tell staff at school. However, some said they would feel embarrassed about making a complaint due to its potentially intimate nature.

“If it’s sore or uncomfortable I’ll say something. But if I’m embarrassed about it I might not. It depends on the person.”

“You feel awkward. You feel like you should say something but you don’t want to.”

For those young people who had made a complaint in the past, it did not always result in a change in practice. One young person said that when she made a complaint, the learning support teacher replied that nothing could be done due to “rules and regulations”. She was informed that for the issue to be resolved, it had to go much higher “up the chain”.

Another young person had tried to make a formal complaint about the treatment she received but gave up when she was never given the correct details of the person who dealt with complaints.

One young person stressed the importance of empowering children and young people so that they feel able to speak up and know that others should listen to them.

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¹ Direct payments may be used by people who have been assessed as needing help from health and social care services but who would like to arrange for their own care and support instead of receiving it directly from the local authority.
“I used to be apprehensive but since being involved with Playback and consultations more, less so.”

**Service design**

Some young people reported that services are failing to meet their needs. For example, one young person described a situation in which the hours of her carers were changed by the local authority. They were no longer able to start before 8am and yet she needed their help to get up, get bathed and dressed and get to school. As a result, the authority replaced her usual carers with private contractors who were able to start at 7am.

“**Rules over reality**”

Many of the young people taking part in the consultation felt that the rules and policies relating to moving and handling and applying to their situation were not appropriate. This was summed up by one young person as “rules over reality”.

“My carers pretend they use the hoist, but they don’t. When their bosses check up on them, they have to practice using the hoist the day before so it looks like they do it all the time.”

“Reality does not match up with rules. The rules are made up out of papers, reports and theories, not out of the way life works.”

“The assistants are always going on moving and handling courses, but the council’s policy says no moving and handling!”

“I think the regulations are based on theory not people.”

Some young people felt that policies were geared towards the protection of the employee at their expense. While they accepted the need to protect those helping them (and indeed felt responsible for their safety in some cases), they were keen to ensure such protection was balanced against their own needs and rights.

“We really need to try and get some balance between protection and risk, carer’s safety and young people’s basic human rights.”

**How to make it better?**

Some of the young people shared their views on how moving and handling practice could be improved. The following issues were raised:

- more individualised care planning;
- get young people involved in training staff;
- guidelines that are based on real life;
- change the way staff speak to young people;
- more guidance for carers on how to treat young people as individuals and respond to their particular needs; and
- appropriate equipment at the right time.

**2.3 Consultation with parents and carers**

SCCYP sought the views of parents and carers of children with disabilities with a view to finding out more about the impact of moving and handling issues on their children and on family life. To this end, we held two focus groups with parents and carers. The parents attending one focus group, organised by Playback, were also invited to complete a questionnaire about moving and handling.

In addition, we carried out one-to-one interviews with four parents, and drew on the experiences of two parents who had sought information from SCCYP’s enquiries service regarding moving and handling issues. We also received written information from seven parents.

The majority of the parents participating in our consultation were mothers, although fathers were also represented along with one grandmother and three foster carers.
2.4 What parents and carers said

The parents and carers raised a variety of issues during the consultation, many of which were linked to but went wider than moving and handling policy and practice. This range of issues highlighted the difficulties they encounter on a daily basis and how often systems designed to help them become an added source of anxiety.

Generally, their experiences were varied, highlighting significant inconsistencies in practice. These inconsistencies arose between different settings (such as at school or when receiving help at home) and different service providers, and between local authorities. For example, many parents reported no problems at school, while for others, school was the main source of anxiety. Some parents wondered how such variation was possible given that everyone should be working to the same regulations and policies.

“Why can the same individual have different outcomes from different assessors supposedly practising from the same guidelines?”

Attitudes

Some parents felt many of the difficulties they experienced were rooted in general attitudes towards children with disabilities.

“It’s all about how you see people and about seeing children as rights-holders.”

“Professionals need to be more open minded about how to manage someone’s support rather than just always thinking that you need another person or equipment because of health and safety regulations.”

“They have totally lost sight of the person in all of this”

However, several parents were keen to stress how much they valued the support and commitment of many of those employed to work with and care for their children.

“They went out of their way. They supported him.”

“We’re very happy with our social worker. He has been helping with all these issues.”

Attitudes towards risk

The parents and carers echoed many of the issues raised by the young people, as well as raising new issues. Several parents commented on attitudes towards risk and a fear of litigation on the part of service providers. They were frustrated at what they perceived to be vain attempts to eliminate all forms of risk for their children.

“It’s not about getting rid of risks, just minimising them.”

“He fell over on a school trip in his wheelchair because he wanted to be down where the boys were playing football so he started wheeling himself down the hill and then fell over. I think the school were quite horrified by that but, you know, he could have been running and fallen over. As long as he’s not broken anything, falling over is just part of being an eight-year-old.”

“Health and safety and risk assessment is often, in my opinion, used as an excuse not to do something. The ‘risk’ to my daughter’s mental health and self-esteem by her exclusion from certain activities is one of the elements that never seems to be taken into account in a risk assessment.”
"We went to see an old boat that was shipwrecked. I had Mark out the wheelchair and on the boat. If you were to do a risk assessment on something like that, you wouldn’t let anyone on it never mind a child who is disabled and can’t stand on his own. But I’ve got pictures of him, standing with seaweed around his feet... There are some things that you’ve just got to do even though it might be a bit risky.”

Regulations and policies

The majority of the parents and carers consulted felt that regulations and policies around moving and handling worked to the detriment of their children. They felt the health and safety of those employed to work with them was emphasised at the expense of children’s needs and called for a more balanced approach to risk assessment. Many stated that a more flexible approach is needed and that the focus should be on the individual child’s circumstances, rather than making assumptions and applying blanket policies.

“They are putting in all these rules and regulations that don’t benefit our children but benefit the carers of our children or the staff that are working with our children.”

“Things have shifted so much that everything seems to be in favour of the carers, and detrimental to the children. Because people are scared to say that on the odd occasion that we can lift this person. People that say that there is no manual lifting are not actually right. That is one of the big problems – you can lift someone manually.”

“We shouldn’t have to be fighting as individuals. We should be having a much more open policy, where every child’s needs are looked at, and practical, workable solutions. A balanced approach.”

“If you are working with our children they need so much support, then you are going to have to change the rules a bit.”

“They have gone far too much for absolute safety. They have to be more flexible. They have to look at the individual child.”

Many parents were uncertain as to the law on moving and handling and what policies were being operated by their local authority or their child’s school. Parents were not always sure what constitutes good or bad practice and there were misconceptions as to which types of moving and handling are allowed and which are not. What was clear was that parents were often not supplied with adequate or correct information and this fuelled their confusion and uncertainty.

Training and information for parents and carers

The vast majority of the parents and carers we spoke to had received no moving and handling training, yet they routinely carry out manual handling tasks for their children. They said they would very much welcome some training. Some thought they probably carried out some tasks incorrectly, or that there might be better ways of doing things that they did not know about, and thought training would help.

“We never get offered moving and handling training. Our hoist was put in at home but no training was offered regarding hoists and slings. They didn’t even guide us to where we could get training.”
Of the few parents and carers who had received training, their experiences were mixed. They tended to find it very useful, but some noted that the training was not centred around children and young people, nor their particular child’s needs. Moreover, some parents were only able to access the training because of their own employment: they did not receive the training in their capacity as a parent or carer.

“Our physiotherapist referred us to the Bobath Centre. We learned about the practicalities of day-to-day living, tips on correct posture etc. It was very good.”

“We are not employed as such by the council although we are registered as special foster carers and the council provides training. They sent us recently on a moving and handling course and it was very basic and based on moving someone who has a greater level of mobility than the kids we look after. So the course wasn’t any use. When you ask what to do, they don’t know.”

“I haven’t had any bad experiences so far thankfully, but no training at all as a parent and I feel this would have been helpful. I am due to get training shortly. This should help things in the longer term.”

One parent had not received formal training but had received good advice from her daughter’s physiotherapist. She said, “I feel these sorts of tips and advice are vital to parents and would make all the difference to them.”

Linked to the issue of training, many of the parents lamented the lack of information available to them about their child’s condition and what they should expect in the future. Some parents mostly got their information from other parents or from supportive voluntary organisations. One noted that if parents want information, they have to be very proactive.

**Involvement in risk assessment**

Good practice dictates that as well as involving children and young people themselves in risk assessments, parents and carers should also be involved. Parents are an invaluable source of information about their child, their likes and dislikes and what makes them feel comfortable. Their involvement is particularly important when an assessment is being carried out in relation to a young child or a child with communication difficulties. Nonetheless, during the consultation with parents, it became apparent that risk assessments were often carried out not only without their involvement, but on occasions without their knowledge. At times these assessments resulted in a significant change in provision for their child, yet the parent was not given an opportunity to contribute. In one case, a parent discovered the existence of a new assessment and a change in provision months after it had taken place.

One parent said that not only were she and her son not involved in the assessment, but neither were those who worked directly with him. Instead, the assessment was carried out by a stranger who, she says, did not take the time to listen to the child or his support workers.

The need for professionals to get to know the child and their circumstances was echoed by other parents who noted the number of staff caring for their child who were not familiar with the child’s particular needs and abilities. One parent said that her daughter’s support workers did not know she could weight-bear and stand upright until she got a stand aid. They had worked with her for four years.
Several parents described assessments which resulted in impractical and unrealistic care plans. One parent told of a risk assessment that estimated her child required 19 transfers each day, and that the hoisting would take up to two and a half hours out of his school day. She felt this was unacceptable and was worried about her child missing out on his classes. Since questioning the assessment, she and the school have been working together to reduce the number of transfers and the time they take.

“They are not assessing sensibly and practically.”

Short term planning

Many parents thought that services focused too much on the immediate needs of their children and did not plan for the future. This often led to difficulties in the long term.

One family moved to a new area to be near a school that was able to meet the child’s needs. They could not afford a bungalow and were forced to buy a house with stairs which will soon require adaptations at great cost. The family wonders why they could not have been assisted to buy a more appropriate home in the first place, at less expense to the authority.

Equipment and adaptations

The majority of the parents involved in the consultation had experienced significant delays in receiving appropriate equipment or in having adaptations made to their homes. One parent thought that it was unfair that the family’s social worker, fed up with the time it was taking to get the right equipment, had resorted to approaching a charity for funding to buy the equipment themselves. However, some families reported that adaptations had been made when asked for, illustrating the inconsistency in service provision between local authorities.

“We’ve been carrying him up and downstairs for his bath because we’ve been waiting 18 months for the bathroom to be built downstairs.”

The impact of such delays can be significant: one parent described how alterations to a school bus meant her son was off school for one week and described his enforced absence from school as unacceptable.

Several parents referred to particularly lengthy delays in the provision of wheelchairs. By the time the wheelchair arrived, their child had grown out of it.

“It’s a waste of money. If it’s going to take that long to order a chair then they should order a bigger one. Why should it take so long?”

“The wheelchair service is really horrific. That’s what I would like to change!”

Some of the parents’ views on hoists mirrored those expressed during the young people’s consultation. Several thought that using hoists was too time-consuming. However, other parents were grateful for the assistance the equipment provided.

“I think we are going to have to get hoists. And I don’t like the thought of it at all... it just seems so intrusive. You’ve basically got to have a machine to do what we’ve been doing.”

“My daughter doesn’t really like the hoist. Nurses have told me to persevere with it, which I am doing as my daughter is definitely getting bigger and heavier, and I’m starting to feel the strain.”

An issue raised often during consultation with parents, young people and practitioners was compatibility of equipment.
Parents in particular were vocal about this issue and felt that manufacturers should work together to ensure equipment is compatible. They thought it was particularly frustrating to find an accessible toilet with a hoist in, for example, a shopping centre, only to find that the sling they use at home is incompatible with it.

“We were using the same sling on two different types of hoists. We had done this for a while and had no problems. However it was brought to our attention that hoist X had to be used with sling X and hoist Y had to be used with sling Y. Even though we had used sling X with hoists X and Y and had no problems we were now being told we could no longer do this. Now I fully appreciate no one wants to be sued or blamed, or most of all for my son to be hurt, but I don’t think they realise how hard it can make things for families.”

Making a complaint

Some parents were reluctant to complain because they felt it would be futile, while others felt changes could only be made by those in charge, rather than those working directly with their children. One parent described complaining directly to the head of the education department after she was asked to go into her son’s school to lift him because his support worker was absent. This strategy proved to be effective: the head of the education department was appalled and ensured that all the learning assistants at the school received moving and handling training so the same situation would not arise again.

Meanwhile, other parents spoke of being tired of complaining all the time and had chosen to ‘pick their battles’ instead, letting the little things go and only complaining about more serious matters.

“I was so horrified that I couldn’t even go to the school to speak to them about it. I thought I’d just get really, really angry: it was too personal and too upsetting.”

“I would feel bad because deep down I know it’s not their fault, but people at the top who decide these rules have to know the impact they can sometimes have on families.”

One mother described being reluctant to make accusations against staff. She suspected a particular staff member was not changing her child’s pad, but said, “I don’t know what I’m going to do about it. I’ll leave it for another few days and see whether there’s a specific reason for it. I don’t like to jump on things right away.”

Accessible buildings

All the parents involved in the consultation mentioned the lack of accessibility in buildings, including schools and other public facilities. While they acknowledged it could be difficult to make old buildings accessible, they were frustrated at inaccessible new buildings. This frustration was particularly acute with regard to schools – several parents pointed out the irony in building inaccessible schools at the same time as promoting a policy of inclusion.

“It’s a relatively new campus but it was built without any access for wheelchairs. It was only built three years ago. There are no fire doors that open automatically. There are no height adjustable desks or tables – nothing to help anyone who has a disability or mobility problem.”

“When they build schools they are not actually thinking about our children. Why build a school that a child cannot get in or out of if there was a fire?”

“They built this new campus and they knew that he was coming and they knew his needs. Reports were done, but when it came to the school being built, hardly anything had been done or taken on board.”
“It’s not just schools. They should be looking at public facilities from the beginning, before they start building them and thinking ‘what is the worse case scenario?’ and start from there. Cater for the most complex disability and then you would be more likely to get it right for everybody.”

Fire evacuation

One of the issues which most concerned parents was fire evacuation. During the focus groups, they became increasingly emotional and angry as they described various plans for evacuating their children in the event of a fire at school, many of which were unacceptable to them and impractical. Evacuation plans which involved their children being left in the school to be rescued later appalled them, and they felt their children were being discriminated against and their safety regarded as a low priority. One family spoke of their daughter becoming hysterical during a fire drill at school when she realised her brother, a wheelchair user, had been left in a stairwell.

Inclusion

Despite aspirations of inclusive education, many parents felt their children are excluded in practice, often as a result of moving and handling issues. Some parents reported their children being absent from school due to a lack of staff trained in moving and handling. Often, these were one or two-day absences, but they sometimes lasted a week. Parents noted that some schools made their children leave each class early, citing health and safety or moving and handling reasons. They were frustrated by this because they knew this was not the case at other schools and feared their children were missing out.

“She doesn’t need to come out of class early, even though there are so many people there. It is quite accepted that she comes out at the normal time.”

“On a couple of trips they’ll get a special bus to come with the wheelchair lift but they put him in it on his own. Even if some other kids could go on it with him... These are the things they think are acceptable solutions but I don’t think they are. I don’t see them as being inclusive, but they are solutions I suppose. Just not very inclusive solutions.”

A number of parents were concerned about the amount of time their children spend with adults, instead of being in the company of friends their own age. This was particularly true of schools, where parents thought there was a reluctance to leave their children alone for ‘health and safety reasons’. Some parents also reported that their child’s friends had been banned from pushing their wheelchair for health and safety reasons. Again, this meant that an adult support worker was always present.

“At break, there is always an adult with him. Can’t they hang back discreetly while he engages with friends?”

A few parents noted that their child’s educational experiences depended on the particular school, the staff attitudes and whether they had dealt with a child with similar needs before. Where this was not the case, one family described their son as being:

“a guinea pig. He is a complete shock to his school and the mainstream system. They don’t know how to educate him, they don’t know how to communicate with him, they don’t know how to handle him.”
The people who do work with him try their best: they are developing and learning all the time from him. But they are not getting the support they need. There’s no help from above.”

School trips

Echoing what the young people said, many parents noted that school trips could be a source of difficulties. While some parents said that their children had participated in school trips with appropriate risk assessments being carried out to ensure they were fully included, other parents felt there was an expectation that they would accompany their child on the trip.

“I don’t know whether there’s an expectation from them or not, but me or my husband tend to go on the trips and my husband will lift him on to the bus. It’s getting him on and off the bus that’s the problem. I have asked what would happen if one of us can’t come on the trip, but we didn’t really get an answer.”

One parent described her daughter’s school trip to a venue with inaccessible toilets. The support workers were unable to use a portable hoist due to a lack of space and were ‘not allowed’ to lift the young person. Instead, the parents spent the day waiting in their car outside the venue until their daughter needed the toilet, at which time they would go in and physically lift her.

Another parent described a skiing trip for which the preparation had been “superb in its attention to detail” and in which her child was fully included. Nonetheless, on one day of the trip, her child spent a whole afternoon with just her support worker while the other children took part in an activity. Her child was hugely disappointed and the experience spoiled what was otherwise an enjoyable trip with her friends.

Leisure activities

Just as the young people were frustrated at the lack of opportunity to participate in leisure activities, so too were their parents. Moving and handling issues affect their families on a daily basis and planning family outings was likened to a ‘military operation’. In particular, issues around toileting affected where they could go and what they could do. Parents were also keen for their children to take part in activities without them being there, but this was often impossible.

“At eight, he could be going to the Scouts by himself or an organisation like that without his mother hanging about.”

Parents stressed the need for accessible, affordable activities such as swimming, horse riding or play parks with adapted equipment. Often participation in activities requires adults to bend the rules.

“He does get swimming lessons on a Sunday afternoon from a big, beefy swimming instructor who just lifts him out of his wheelchair and carries him over to the pool. How long that can continue for, I don’t know though. That’s probably not what he’s supposed to be doing I would imagine.”

2.5 Consultation with practitioners

We consulted with moving and handling practitioners to ascertain their views on moving and handling issues. We carried out one focus group with seven staff at Quarriers, a large voluntary organisation providing services to children with disabilities and their families. We also ran workshops at a conference held by the Scottish Manual Handling Forum. The workshops were attended by around 40 professionals from across Scotland, most of whom were employed by the NHS or local authorities. The professionals were split into three groups and asked questions relating to
specific themes including training; user-involvement; joint working; moving and handling policies and their implementation; and resources for moving and handling.

We also received written submissions from three professionals from the health and voluntary sectors, and had one-to-one interviews with two education professionals.

2.6 What the practitioners said

While discussing moving and handling with the practitioners, it became clear that they thought the number of children and young people with complex needs is rising and that moving and handling is an increasing demand on their organisations. Several themes arose in either all or the majority of our discussions with practitioners although at times there was variation in what practitioners in the voluntary sector had to say, compared with those in the statutory sector.

Implementing law and policy

During the consultation, we asked practitioners about their awareness and understanding of moving and handling law and policy. Many practitioners were uncertain as to the law and thought it could be clarified. They felt that national law and policy, as well as their own organisational policies on moving and handling, contained conflicting messages and were unsure how to resolve these in their practice. Some thought that there were so many different pieces of legislation that it ends up being a “judgement call”.

Some thought that guidelines on moving and handling were insufficiently robust, while others said their policies were too rigid. Many suggested that policies should be standardised.

Most practitioners were aware of their organisational policies and how to comply with them, although some said that compliance was sometimes impossible. This could be due to the fact that the policy was too rigid, or to a lack of support or equipment. Some practitioners noted that while blanket policies containing a ‘no lifting’ rule are not allowed, in practice, they cannot get any training on how to lift.

A few practitioners noted that it is not always the policy per se that causes difficulties, but rather the variation in its implementation. They thought that the implementation of some policies was to the detriment of young people.

Barriers

The practitioners identified multiple barriers to implementing good moving and handling practice. These included problems with training, a lack of resources, poor implementation of risk assessments, bureaucracy, a failure to plan in the long term, a shortage of paediatric therapists and the fact that moving and handling is given a low priority. Several practitioners reported feeling lonely and isolated. They felt it was good to make links with other professionals and to work in teams.

Training

With regard to training, it was noted that many local authorities buy in training from external organisations. Many practitioners thought this led to problems. External training providers were not always aware of how services are delivered in the authority and were unfamiliar with the prevailing culture and attitudes, as well as environmental factors that staff must take into account. Moreover, the use of external training providers means that there is no on-site support when complex issues arise and there is insufficient expertise within the authority. Several practitioners noted a general variation in practice with some believing that this was due to training being provided by various agencies. This was confusing for children and parents who experienced different types of practice, as well as for practitioners themselves.

Organisational issues

Many practitioners felt that certain organisational factors acted as a barrier to good moving and handling practice. Several noted that there can be a failure to take responsibility or leadership for moving and handling within an organisation. This was particularly true amongst senior managers who often do not see moving and handling as a priority.
Some practitioners said their organisations did not have anyone with ‘ownership’ of moving and handling issues: they thought it would be useful if a moving and handling co-ordinator was appointed.

Some local authority staff said that authorities sometimes experience difficulties in recruiting staff with the necessary skills and experience. One practitioner suggested that the fact that terms and conditions for staff in the health sector are often much better than for local authority staff may be contributing to recruitment difficulties.

**Partnership working**

All of the practitioners who took part in the consultation emphasised the need for multi-agency working. While some practitioners noted that this did take place in their area, the majority said the absence of partnership working between agencies was a major barrier to good moving and handling practice. Partnership working could take the form of shared assessments, funding for joint posts or multi-agency agreements and protocols. The practitioners felt it would ensure consistent standards in the delivery of services to young people, allow for the transfer of skills between agencies and encourage awareness of good practice. They also hoped that partnership working could go some way towards resolving arguments between agencies about funding arrangements.

**Communities**

Just as the young people and parents expressed frustration at the lack of accessible community facilities, so too did the practitioners. They called for a more inclusive design of facilities and wondered whether venues could include more details about their accessibility on their websites.

**Equipment**

Almost all of the practitioners involved in the consultation referred to equipment difficulties. Many of the practitioners shared the confusion felt by parents regarding the compatibility of different types of equipment.

They wondered why equipment could not be standardised and saw a role for manufacturers to make this happen. A voluntary sector organisation providing short break services found this to be a particular problem. It supports children and young people from a range of local authorities, each authority with its own preference for a particular type of equipment. This frequently causes the organisation difficulties as they have been told by manufacturers that they will not be covered in the event of an accident in which, for example, a sling made by a different company is used with their hoist.

The practitioners also referred to delays and inconsistency in equipment provision. They noted that often a risk assessment will be carried out which specifies that a particular piece of equipment be used, but the equipment is not then delivered, causing frustration to both family and practitioner. More than one practitioner referred to the particularly exasperating situation in which one piece of equipment is provided, but can only be used in conjunction with another piece, which has not been provided. For example, one professional described a risk assessment in which a tracking hoist was recommended. The tracking was installed in the family home, but the family are still awaiting delivery of the hoist.

Even where equipment is provided, several practitioners noted that the parents are not shown what to do with it, and it therefore goes unused.

**Voluntary sector issues**

In contrast to many practitioners in the statutory sector who felt that inadequate and insufficient training was a barrier to good practice, practitioners in the voluntary sector felt that training was one of their strengths. Moving and handling training is mandatory for staff providing support to children and young people and is updated regularly. Whereas expertise often lies outside local authorities with external training providers, at Quarriers, there is considerable expertise within both the training and health and safety departments.
In addition, there is a designated member of staff within each Quarriers project who has responsibility for moving and handling and who supports other staff members.

Practitioners in the voluntary sector noted that moving and handling issues have huge cost implications for their organisations. However, the amount local authorities are prepared to pay for services is declining. While this was a general issue that went far wider than moving and handling alone, the practitioners did say that it has a knock-on effect on the quality of service they can deliver to children and their families.

**Good practice**

During consultation with practitioners, many practitioners gave examples of good practice and expressed a desire to learn about good practice in other organisations. Several called for a ‘best practice model’ of moving and handling, while others emphasised the need to bring all the information about moving and handling together in one place, such as a website.

In describing examples of good practice, the practitioners emphasised the need to:

- organise the service around the child;
- ensure continuity in service provision through transition periods (for example, during the transition from child to adult services);
- plan for the long term;
- revisit moving and handling plans regularly; and
- refresh staff training regularly and provide training in the setting in which the person works so new solutions can be tested.

One practitioner said that if there are different views in her team about the assistance a young person should receive, they take photographs of different moves and positions. The team then looks at the photo along with the child and they agree the best solution. The photos are attached to the risk assessment so that everyone knows what to do.

The practitioners noted that good moving and handling practice requires sufficient resources and staff time, effort and commitment.

**Working with children and their families**

In describing good practice, the practitioners stressed the importance of working together with families to find solutions to moving and handling problems. Children and young people and their parents should be involved in risk assessments, and when providing assistance, practitioners should always explain what they are doing and ask for feedback. They noted that even where a young person has communication difficulties, it is still possible to ascertain their preferences by observing them.

They acknowledged that training in moving and handling is rarely available for parents and saw this as a barrier to introducing good practice in the home. They felt that if parents had training, they would have a better understanding of why things are done in a certain way. The practitioners were uncertain as to who funds training for parents and said this should be addressed.

**2.7 Conclusion**

From what children and young people and their parents and carers have to say, it is clear that moving and handling presents many challenges with poor practice often negatively impacting a child’s physical and emotional well-being. The key message arising from discussions with them is that children and their families should be listened to and that children should be treated as individuals. They also noted the importance of having a good relationship with workers and how this can significantly improve the quality of their lives.

It is useful to note the common ground between what children, young people and parents had to say, and what practitioners said. Practitioners acknowledged that barriers to good practice exist but were keen to explore ways in which those barriers could be overcome.
“Reality does not match up with rules. The rules are made up out of papers, reports and theories, not out of the way life works.”
CHAPTER 3:
Legal and Policy Context

Moving and handling issues affecting children with disabilities are set within a wide-ranging and often complex legal and policy framework. This framework encompasses domestic, European and international law and covers subjects such as health and safety, children’s rights, the provision of children’s services and disability discrimination.

Moreover, the setting in which the moving and handling takes place can bring various other statutory regimes into play, whether it be education and additional support for learning, or the accessibility of services and facilities and community planning processes.

This chapter sets out the main legislative framework within which the moving and handling of children and young people takes place. It begins by noting a number of general rules and principles that apply to all decision and policy making about children and the provision of services to them. Thus, we will consider the United Nations Conventions on the Rights of the Child and on the Rights of Persons with Disabilities, the European Convention on Human Rights, and other relevant statutory provisions. We will then go on to explain relevant health and safety law including the Health and Safety at Work Act 1974 and a number of Regulations specific to manual handling. Finally, we will consider how health and safety law is interpreted via guidance from various sources as well as by the courts.

3.1 United Nations Convention on the Rights of the Child

The Convention on the Rights of the Child (CRC) sets out the fundamental human rights to which all children are entitled. It sets out minimum benchmarks in rights for children rather than ‘best practice’: countries are thus encouraged to exceed the standards laid out in the Convention, but should not fall short of its basic requirements.

By ratifying the CRC in 1991, the UK committed itself to bringing its law, policy and practice into line with the Convention. While not directly enforceable in domestic courts in the way that the European Convention on Human Rights now is, it should be noted that the European Court of Human Rights increasingly makes reference to the CRC in its judgments as a common standard amongst member states and section 2 of the Human Rights Act 1998 obliges UK courts to take account of European jurisprudence in making their own decisions. Furthermore, domestic courts in the UK are increasingly making reference to the CRC in its own right in their judgments.

The Convention has four key principles which underpin the remaining provisions. All of these are relevant to moving and handling issues. They are:

- the rights contained in the CRC shall be respected and ensured without discrimination of any kind, including discrimination based on the child’s disability or that of the child’s legal guardians (Article 2);
- the best interests of the child must be a primary consideration in all decisions made about the child whether undertaken by the courts, legislative bodies, administrative authorities or by public or private social welfare institutions (Article 3(1));
the state must ensure, to the maximum extent possible, the survival and development of the child (Article 6); and

the views of the child concerned must be given due weight in all matters affecting the child in accordance with the child’s age and maturity (Article 12).

Article 23 of the CRC makes particular provision for children with disabilities. It states that mentally or physically disabled children should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child’s active participation in the community. Articles 23(2) and 23(3) set out the rights of the disabled child to special care and assistance, emphasising his or her individual development and fullest possible social integration.

In addition, further provisions of the CRC are relevant to moving and handling:

- states shall ensure that the institutions, services and facilities responsible for the care of the child shall conform with the standards established by competent authorities, particularly in the areas of safety, health and in the number and suitability of staff (Article 3(3));

- the child should not be subjected to arbitrary or unlawful interference with his or her privacy (Article 16);

- states shall take all measures to protect the child from all forms of injury, neglect or maltreatment by parents or others who have care of the child (Article 19);

- states shall provide appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities (Article 18);

- the child shall enjoy the highest attainable standard of health and have the right to facilities for the treatment of illness and rehabilitation of health (Article 24);

- the child has a right to education (Article 28); and

- the child has a right to rest and leisure, to engage in play and recreational activities and to participate in cultural life and the arts. States must promote this right and should encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity (Article 31).

3.2 United Nations Convention on the Rights of Persons with Disabilities

Adopted by the United Nations General Assembly in December 2006, the Convention on the Rights of Persons with Disabilities is currently open for signature and ratification but is not yet in force. The UK was among the first states to sign the Convention on 30th March 2007 but has not yet ratified it. Nevertheless, by signing the Convention, the UK has indicated its intention to proceed towards ratification which will result in the UK being bound to fulfil the obligations the Convention places on states.

The Convention sets out the rights to which those with disabilities are entitled. It does not grant ‘new’ human rights, but seeks to ensure that those with disabilities enjoy the same rights as others. The Convention is grounded in eight general principles, to be found in Article 3. These principles include:

- respect for inherent dignity and individual autonomy, including the freedom to make one’s own choices, and independence of persons;

- non-discrimination;

- full and effective participation and inclusion in society;

- accessibility; and

- respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

The Convention covers specific rights, such as the rights to health, education and adequate living conditions, many of which reflect those rights found in the CRC.
In addition, the Convention on the Rights of Persons with Disabilities calls on states to:

- raise awareness and to foster respect for the rights of persons with disabilities (Article 8);
- promote accessibility to the physical environment, to transportation and to information and communications (Article 9); and
- respect the physical or mental integrity of every person with disabilities (Article 17).

Article 7 of the Convention deals specifically with children with disabilities and again echoes the principles of non-discrimination and best interests of the child found in the CRC. Article 7(3) requires states to ensure that children with disabilities have the right to express their views freely on all matters that affect them and to provide them with disability and age-appropriate assistance so that right may be realised.

Perhaps most relevant to moving and handling issues is Article 20 regarding personal mobility. The Convention requires states to take effective measures to ensure personal mobility and independence. This includes:

- facilitating access to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries;
- providing training in mobility skills to persons with disabilities and to specialist staff working with them; and
- encouraging organisations that produce mobility aids to take into account all aspects of mobility for persons with disabilities.

### 3.3 European Convention on Human Rights


A number of Convention rights may be relevant to moving and handling issues including Article 3 (protection from torture, inhuman and degrading treatment and punishment) and Article 8 (right to private and family life). Additional rights, such as Article 2 (right to life) and Article 14 (prohibition of discrimination) may be relevant depending on the particular situation.

**Article 3**

Article 3 states that, “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.” Cases involving torture represent the most severe forms of treatment prohibited by the Convention, but Article 3 in fact extends to many types of behaviour which attack human dignity and physical integrity. Thus, in *Price v United Kingdom*, the European Court of Human Rights found a violation of Article 3 where a severely disabled person was imprisoned in conditions which were inadequate to meet her needs. The Court found that the detention of “a severely disabled person in conditions where she is dangerously cold, risks developing sores because her bed is too hard or unreachable, and is unable to go to the toilet or keep clean without the greatest of difficulty” amounted to degrading treatment under Article 3.

The prohibition in Article 3 is absolute and sets out no circumstances in which ill-treatment may be justified. However, not all types of ill-treatment are covered by Article 3: the treatment complained of must attain a minimum level of severity.

Whether this minimum level has been reached depends on all the circumstances of the case including the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim.
As well as requiring states not to engage in inhuman or degrading treatment, Article 3 also imposes a positive obligation on states to ensure the effective protection of physical integrity by, for example, enacting laws prohibiting ill-treatment and enforcing such laws when ill-treatment takes place.5

**Article 8**

Under Article 8(1), everyone has the right to respect for his private and family life, his home and his correspondence. However, this right is not absolute and Article 8(2) sets out the circumstances in which those rights may be interfered with. Thus, deciding whether a person’s Article 8 rights have been breached involves a two-stage test.

First, it must be determined whether the facts in question fall within the scope of Article 8(1). Thus far, no strict rules have been laid down as to the meaning of ‘private and family life’, ‘home’ and ‘correspondence’. Instead the European Court of Human Rights has tended to develop their meaning on a case by case basis. It is most likely that claims relating to moving and handling will be made under the ‘private life’ aspect of Article 8. ‘Private life’ has been held to include the following concepts which are of relevance to moving and handling:

- a person’s physical and psychological integrity6;
- the quality of private life as affected by the amenities of his home7; and
- the right to establish and develop relationships with others8.

In a domestic case concerning moving and handling, the court noted that while human dignity is not expressly mentioned, it is inherent in the Convention and is one of its “core values”.9

Once a court finds that Article 8 applies to the particular circumstances of a case, it will consider the second stage of the test. This involves assessing whether the interference with the right is justified. To be justified, Article 8(2) requires that any interference must be:

- in accordance with the law. This means there must be a legal basis for the interference (such as legislation) and this legal basis must be clear, accessible and the consequences reasonably foreseeable. In addition, there must be some safeguard against arbitrariness in the law’s application (this requirement may lay blanket policies open to challenge); and
- in pursuit of a legitimate aim (that is, in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others); and
- necessary in a democratic society. In assessing whether an interference is necessary, courts consider whether there is a pressing social need10 for it and apply a test of proportionality. This test requires the state to give reasons for the interference that are relevant and sufficient11, and for the court to weigh these reasons and the aim being pursued against the interference with an individual’s rights.

It should be noted that, as with Article 3, Article 8 not only requires states to not interfere with an individual’s rights, but in some cases can also impose on the state certain positive duties to respect the private lives of individuals.12

The application of Articles 3 and 8 to moving and handling issues in the UK will be discussed below at paragraph 3.9.

### 3.4 Other relevant statutory provisions

As well as this general framework within which decision and policy making affecting children and young people and the delivery of services should be considered, there is additional legislation that is relevant to moving and handling issues, some of which is relevant only to particular settings.

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5 A v United Kingdom (1998) 27 EHRR 611.
6 Botta v Italy (1998) 26 EHRR 241 at 257 (para 32).
7 Powell and Rayner v United Kingdom (1990) 12 EHRR 355 at 368 (para 40).
8 Niemietz v Germany (1992) 16 EHRR 97 at 111 (para 29).
9 R v East Sussex County Council, note 2 above, at para 86.
10 Dudgeon v United Kingdom (1982) 4 EHRR 149 at 164 (para 51).
11 Handside v United Kingdom (1976) 1 EHRR 737 at 755 (para 50).
12 Marckx v Belgium (1979) 2 EHRR 330.
For example:\(^{13}\):

- local authorities shall safeguard and promote the welfare of children in their area who are in need by providing a range and level of services appropriate to the children's needs. Such services may be provided to the child himself or his family (s.22 Children (Scotland) Act 1995);

- services provided by a local authority shall be designed so as to minimise the effect on a disabled child of his disability and give disabled children the opportunity to lead lives which are as normal as possible (s.23 Children (Scotland) Act 1995);

- local authorities and those responsible for independent, grant-aided and self-governing schools (“responsible bodies”) have a duty to prepare accessibility strategies for the purpose of:
  - increasing the extent to which pupils with a disability can participate in the school curriculum;
  - improving the physical environment of schools and increasing the extent to which pupils with a disability are able to take advantage of education and associated services (such as school trips); and
  - improving communication with pupils with a disability in ways that take account of their disabilities and preferences.

Accessibility strategies must be in writing and must be kept under review. Responsible bodies are also under a duty to implement their accessibility strategy. In preparing an accessibility strategy, children and parents must be consulted (Education (Disability Strategies and Pupils’ Educational Records) (Scotland) Act 2002)\(^{14}\);

- the Education (Additional Support for Learning) (Scotland) Act 2004 created a framework for providing additional support for learning to those children who need it. The Act imposes a number of duties on education authorities including duties to make arrangements to identify additional support needs and, where needed, to provide co-ordinated support plans for children. In carrying out their duties under the Act, education authorities are required to seek and take into account the views of the child and their parents\(^{15}\);

- the Disability Discrimination Act 1995 requires service providers not to treat disabled persons less favourably than others. It also requires service providers to make “reasonable adjustments” such as changing a practice, policy or procedure which makes it impossible or unreasonably difficult for disabled people to make use of its services; or providing an auxiliary aid or service if it would enable or make it easier for disabled people to make use of its service. Where, for example, a physical feature makes it impossible or unreasonably difficult for disabled persons to make use of services, a service provider must also take reasonable steps to remove the feature, alter it or provide a reasonable means of avoiding it or a reasonable alternative method of making the service available.

- The duty on all public authorities to promote disability equality which requires public authorities to:
  - promote equality of opportunity between disabled persons and others;
  - eliminate unlawful discrimination;
  - eliminate harassment of disabled persons that is related to their disabilities;
  - promote positive attitudes towards disabled persons;
  - encourage participation by disabled persons in public life; and

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\(^{13}\) Please note that this list is non-exhaustive.

\(^{14}\) Further information about the Act is available in a number of publications produced by the Scottish Government (available at www.scotland.gov.uk) and in the statutory guidance, Supporting Children’s Learning: Code of Practice (Scottish Executive, 2002).

\(^{15}\) Further information about the Act is also available in Planning to Improve Access to Education for Pupils with Disabilities – Guidance on Preparing Accessibility Strategies (Scottish Executive, 2002).
• take steps to take account of a person’s disabilities, even where that involves treating them more favourably than others (Disability Discrimination Act 1995, as amended by the Disability Discrimination Act 2005).

• certain specified bodies (including councils, education authorities, health boards and others) are subject to specific disability equality duties which include, for example, the duty to produce and implement a Disability Equality Scheme (Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005);

• local authorities, the NHS and other agencies should anticipate the need for equipment and adaptations to the home as a disabled child grows, and plan and make arrangements for the child’s eventual transition from child to adult services (Circular CCD 2/2003 under the Community Care and Health (Scotland) Act 2002); and

• the National Care Standards for Support Services state that service users should feel safe and secure when using a support service. They should have the right to choose the risks they want to take as long as there is a sensible balance between individual needs and preferences and the well-being of staff. Service users (and, if they wish, their carers) should also be fully involved in their own risks assessments and should receive a copy of the assessment report.

While this manual handling is not limited to the handling of people but also includes the handling of all kinds of objects and materials, it is worth noting that the prevalence of musculoskeletal disorder is above average amongst professionals whose role may involve the moving and handling of people (such as health, social welfare and personal care professionals). The HSE estimates that 9.5 million working days were lost in 2005/06 due to work-related musculoskeletal disorders and believes the cost to employers runs into hundreds of millions of pounds. This research illustrates the need for regulation and guidance to ensure safe moving and handling practice. This regulation sits within a legislative framework encompassing the following:

• Health and Safety at Work Act 1974;

• Manual Handling Operations Regulations 1992;

• Management of Health and Safety at Work Regulations 1999;

• Provision and Use of Work Equipment Regulations 1998; and


Health and Safety at Work Act 1974

The Health and Safety at Work Act 1974 is the primary piece of legislation covering occupational health and safety in the UK and is the Act under which more specific regulations regarding moving and handling are made. The Act places a duty on employers to protect the health, safety and welfare of their employees, as well as the health and safety of others who might be affected by the way they go about their work. To help ensure the health and safety of their employees, the Act requires employers to provide information, instruction, training and supervision, and to provide and maintain safe systems of work. Employers must comply with their duties “so far as is reasonably practicable”. Thus, an employer does not have to eliminate all risk but must balance the extent of the risk against the time, cost or trouble needed to control it.
The 1974 Act is enforced by the Health and Safety Executive (HSE), a non-departmental public body. The HSE also undertakes research, publishes guidance and provides information and advice.

**Manual Handling Operations Regulations 1992**

The 1992 Regulations were designed to give effect to a European Directive on the minimum health and safety requirements for the manual handling of loads and came into force on 1st January 2003. Made under the Health and Safety at Work Act 1974, the Regulations place a number of duties on employers with respect to “manual handling operations” undertaken by their employees. “Manual handling operations” is defined by the Regulations as, “any transporting or supporting of a load (including the lifting, putting down, pushing, pulling, carrying or moving thereof) by hand or by bodily force.” The Regulations further define “load” as including any person, thus bringing the moving and handling of children and young people within their scope.

Under the Regulations, employers are required, so far as it is reasonably practicable, to avoid the need for employees to undertake manual handling operations at work which involve a risk of their being injured. Where it is not reasonably practicable to avoid the need for manual handling operations involving a risk of harm, employers must:

- assess the manual handling operations to be undertaken. This assessment must be reviewed if there is reason to suspect it is no longer valid or if there has been a significant change in the manual handling operations to which it relates;
- reduce the risk of injury to employees arising from such operations to the lowest level reasonably practicable; and
- provide employees undertaking manual handling operations with information about the loads to be carried (for example, the weight of the load).

The Regulations also place a duty on employees to make use of any “system of work” provided by his or her employer which is intended to reduce the risk of injury. Mandelstam has described a safe system of work in the context of moving and handling as including “training, supervision, information, provision of equipment, employers applying their mind to risk, and thought given to the protection of employees in various respects.”

It is thus clear that the 1992 Regulations do not require the elimination of all risk, merely that any risk be reduced to the lowest level that is reasonably practicable. As Mandelstam notes, if the removal of all risk was required, there would be no adequate fire brigade and much reduced therapeutic handling of patients.

It is also worth noting that the Regulations set no weight limits, contrary to what many people believe. Guidance on the 1992 Regulations published by the HSE explains the reasoning for this:

“Such requirements [that is, weight limits] are based on too simple a view of the problem and may lead to incorrect conclusions. Instead, an ergonomic assessment based on a range of relevant factors is used to determine the risk of injury and point the way to remedial action.”

**Management of Health and Safety at Work Regulations 1999**

The 1999 Regulations set out in more detail what is required of employers so that they can effectively manage the health and safety of their employees as well as the health and safety of others who may be affected by their work. The Regulations require employers to make a “suitable and sufficient” assessment of risk which will then allow them to identify any protective and preventive measures that may be needed. The employer should make arrangements to plan, organise, control, monitor and review any such measures and, where he has more than five employees, the arrangements should be recorded.
The risk assessment should be reviewed and any necessary changes made if the original assessment is no longer valid or if there has been a significant change in the matters to which it relates. Where the employer employs five or more people, he must record the findings of the assessment and note any employees identified as being especially at risk.

Employers should take into account the capabilities of his employees and provide them with clear information and training on health and safety. Training should be provided upon recruitment as well as when employees are exposed to new or increased risks (for example, if they are given new responsibilities or there is a change in the equipment to be used). Training should also be repeated periodically.

The 1999 Regulations also require employers to appoint a “competent person” (that is, a person with sufficient training, experience and knowledge of health and safety) to help them implement the necessary health and safety measures. The person appointed must have the time and the means to fulfil their functions. Employers should also have emergency procedures in place.

Employees also have duties under the Regulations. They are required to use any equipment in accordance with their training and with instructions, and to inform the employer of any risks or deficiencies in the health and safety arrangements.

Provision and Use of Work Equipment Regulations 1998

The Provision and Use of Work Equipment Regulations 1998 (often referred to as PUWER) cover all equipment used at work, including lifting equipment. The Regulations place a number of duties on employers with the aim of preventing or controlling risks to the health and safety of employees while using equipment at work. They cover matters such as the suitability of equipment, its maintenance and the need for equipment to be inspected, and working conditions. The Regulations require that all those using equipment must be trained in its use and must be given clear and adequate health and safety information including, where appropriate, written instructions on the use of the equipment.

Lifting Operations and Lifting Equipment Regulations 1998

Whereas PUWER cover all types of equipment used at work, the Lifting Operations and Lifting Equipment Regulations 1998 (LOLER) specifically regulate the use of equipment for lifting loads at work, such as hoists. “Load” is again defined as including people. The Regulations impose duties on employers to ensure the safety of employees and others when lifting equipment is in use. Employers must ensure that lifting equipment is:

- strong and stable enough for each load;
- marked to indicate safe working loads (accessories such as slings should also be marked with information necessary for their safe use);
- positioned and installed in such a way as to reduce any risks to as low as is reasonably practicable;
- used safely, that is, that the work is planned by a competent person and supervised as appropriate; and
- examined and inspected to ensure that health and safety conditions are maintained and that any deterioration in the equipment can be detected and remedied. Where the equipment is used for lifting persons, it must be examined at least every six months or more frequently as appropriate or necessary. Where a defect is found which poses a danger, the employer must be notified and must take steps to ensure the equipment is not used until the defect is rectified.

Further information about the 1999 Regulations and their implementation can be found in a Code of Practice published by the HSE.


3.6 The statutory framework in practice

From the statutory framework outlined above, it is possible to extract general principles and rules that are applicable to the moving and handling of children and young people. Nonetheless, our research has shown that many people find the statutory framework confusing, inaccessible and unclear. Moreover, they can find it difficult to interpret and apply legislation which applies equally to the moving of boxes as it does to providing assistance to children and young people with mobility difficulties. Rather than look directly to the legislation to find guidance on good moving and handling practice, they would seek clarification from other more accessible sources such as codes of practice or good practice guides which are more relevant to their own work.

3.7 Guidance on moving and handling

There are several publications that purport to provide guidance on moving and handling, some of which are discussed below.


In an effort to reduce the risk of back injury among nurses caused by poor moving and handling practice, the organisation Back Care, in association with the Royal College of Nursing (RCN) and National Back Exchange, published guidance on safer handling. This guidance is well-known and has been widely used by both nurses and other practitioners in non-hospital settings. Whereas previous editions of the guidance tended to focus on promoting the health and safety of the worker by putting an end to manual lifting, the fifth edition takes account of the service user’s human rights. It advocates more balanced decision making and practice and should therefore be welcomed.

**HSE, Health and safety matters for special educational needs: Moving and handling (2006); and**

**HSE, Health and safety matters for special educational needs: Legal issues including risk assessment (2006)**

The HSE has published two guidance documents relating to moving and handling in educational settings. Both documents are aimed at “education employers” which would include local authorities, school governing bodies and head teachers. One document relates specifically to moving and handling while the second focuses on risk assessment. Each guidance document sets out the regulatory framework and guiding principles, provides case studies and aims to help education employers comply with their legal responsibilities. The guidance on risks assessment emphasises the need to carry out assessments on a case by case basis and states that assessments should not result in blanket policies. It notes that a balance must be achieved between the requirements of health and safety law and other legislation such as the Disability Discrimination Act, all the while having regard to the human rights of both service users and employees.

Both documents note that it is “helpful” to include pupils and carers in the risk assessment process and that risk assessments developed in consultation with pupils or their advocates can be more acceptable and effective. While this is certainly true, the guidance should put this duty to involve young people in assessments in much stronger terms. It is submitted that it is, in fact, mandatory to involve pupils in individual risk assessments about their care.

**HSE, Handling Home Care (2001)**

The HSE has also published guidance entitled *Handling Home Care: Achieving safe, efficient and positive outcomes for care workers and clients*. This is a lengthier, more detailed document but is not specific to children. Instead, it focuses on care in the home for service users of all ages and is aimed primarily at care service managers and those responsible for assessing mobility assistance risk in home care situations.
The guidance provides practical advice on mobility, emphasising the need to take a case by case approach, to take account of the service user’s autonomy, privacy and dignity, and to seek the views of the service user:

“Best practice indicates a need to consult and work with the client to find effective solutions tailored to individual needs.” 34

The guidance categorically states that the Manual Handling Operations Regulations do not prohibit manual handling and says that ‘no lifting’ policies should not be used as:

“Such policies can be open to misinterpretation, so that hoists are routinely prescribed for all moves and transfers irrespective of the wishes, and sometimes the needs of clients. In some cases, clients unwilling to accept such care have had the service withdrawn.

These Regulations should not be applied arbitrarily to care plans in this way.”

To ensure good risk management, consistency in practice and legal compliance, the Handling Home Care guidance recommends that organisations develop a risk management policy. While noting that the details of such policies will vary between organisations, the guidance nevertheless sets out the issues that should, at the least, be covered in an effective and comprehensive policy. These include:

• how risk management fits within overall care plan development;
• who is responsible for what;
• risk assessment procedures including the appointment of a competent person to carry out risk assessments;
• arrangements for reviewing risk assessments;
• information on how to implement assessments;
• consultation procedures with staff;
• consultation procedures with service users, including informing them of options in mobility assistance and handling techniques;
• encouraging staff and service users to report problems so that remedial action may be taken;
• emergency arrangements;
• training for staff; and
• the supply and use of equipment.

The guidance covers a number of other issues including situations where there is more than one care provider and situations where the service provider and service user do not agree on the assistance to be provided. In a section on training, the guidance states that staff training is not a one-off event and should be repeated periodically. It notes that while some service providers consider one year to be a reasonable period between refresher training courses, it is up to each service provider to judge what is most appropriate for its staff.

The guidance also includes case studies, a few of which feature children and young people.

3.8 Why practice varies

Within the broad framework of the law, the guidance described above has been produced for various contexts. These differ from each other in a number of ways, including in their approach to the acceptability of moving and handling without using equipment. At a more local level, individual organisations or authorities may adopt their own moving and handling policies which may differ again in their interpretation of the law. Moreover, the practice in organisations using external providers of training will depend on the particular policy promoted by that provider. It is thus clear that there are various sources of guidance on which those who provide moving and handling assistance to children and young people can rely for information. The guidance they choose to follow will have implications for their practice and for the service children and young people receive.
Moreover, despite recent attempts in guidance to emphasise a more flexible and balanced approach to moving and handling, the legacy of earlier guidance which advocated a no manual handling approach appears strong. Indeed, in our survey of local authority policy, we found some authorities still relying on the fourth edition of the RCN’s guidance. This is surprising given that it was superseded by a fifth edition in 2005 taking a markedly different approach. Even before 2005, the use of the fourth edition outside the health sector and in non-medicalised settings was felt by some to be inappropriate with the HSE’s guidance being preferred by the High Court in the case of R v East Sussex County Council, ex parte A, B, X and Y.35

3.9 R v East Sussex County Council (ex parte A, B, X and Y)36

This case concerned two sisters, A and B, aged 26 and 22 at the time of the litigation. Both sisters suffered from profound physical and learning disabilities and had greatly impaired mobility, thus requiring to be moved and lifted by their carers. Their home was specially adapted and equipped and they were looked after full time by their mother (X) and stepfather (Y) with assistance from carers employed by East Sussex County Council. The sisters challenged the lawfulness of the council’s manual handling policy of not permitting its staff to lift them. As noted by Mr Justice Munby (Munby J):

“Central to all the disputes which have blighted this family’s life for so many years now is a fundamental difference of view between X and Y, on the one side, and ESCC, on the other side, as to whether and to what extent this moving and lifting should be done manually, as X and Y would prefer in some instances, or, as ESCC would have it, using appropriate equipment.”

The sisters were supported in the litigation by the Disability Rights Commission.

In his judgment, Munby J noted that the Manual Handling Operations Regulations 1992 apply to hazardous lifts, requiring employers to avoid, so far as is reasonably practicable, the need for employees to carry out manual lifting which would involve a risk of injury. He emphasised that there must be a real risk of injury. Where hazardous lifts cannot be avoided, an assessment must be made and the risk of injury reduced so far is reasonably practicable. Munby J stressed that the Regulations represent a ‘risk reduction’ regime, not a risk elimination regime. To assess reasonable practicability, Munby J stated that a ‘cost-benefit analysis’ must be carried out, focused on the particular circumstances of the individual case and involving consideration of:

- the possible methods of avoiding or minimising risk;
- the context;
- the risks to the employee including the likelihood and severity of any injury; and
- the physical, emotional, psychological and social impact upon the disabled person, including their wishes and feelings and the effect upon their dignity and rights.

Indeed, Munby J emphasised the need for the council and its staff to take account of the wishes and feelings of the disabled person as part of the risk assessment. Moreover, where a disabled person is prevented by their disability from communicating their wishes and feelings, those carrying out the assessment must take steps to ascertain them, for example, by seeking advice from carers and relatives such as X and Y.
While noting that the advice of relatives is not determinative, Munby J suggested that good practice nevertheless involves:

- drawing up a ‘dictionary’ of how the closest carers (in this case, X and Y) would interpret the disabled person’s non-verbal communications; and
- where there is uncertainty as to such ‘interpretation’, according great weight to the relatives’ understanding of it.

In considering the human rights of A and B, Munby J noted that Articles 2 (right to life) and 3 (prohibition on torture, inhuman and degrading treatment and punishment) could be engaged, but focused primarily on Article 8 (right to private and family life). He believed Article 8 was engaged in two respects: the first was that Article 8 protects the dignity interests of A and B; and the second was that it protects their right to participate in the life of the community and to have access to an appropriate range of recreational and cultural activities.

However, he also acknowledged that the rights of A and B take effect subject to the corresponding rights of their carers and stressed that there is a fair balance to be struck. This balance is to be resolved by considering whether the interference with the right of the disabled person or the employee if the right of the other is to be respected is such as to be “necessary in a democratic society… for the protection of… the rights and freedoms of” the other. Munby J noted that the concept of proportionality is the appropriate tool for resolving this question.

Munby J also took the opportunity to summarise the law as he saw it and included the following key points:

- some manual handling at least is an inherent – an inescapable – feature of the very task for which those who care for A and B are employed;
- a lifting policy will not be lawful if it, on its face or in its application:
  - imposes a blanket ban on all manual lifting;
  - imposes a blanket ban on all manual lifting except in life-threatening situations; or
  - imposes a blanket ban on all manual lifting except where other means of lifting are impossible; and
- in the case of hazardous lifts, while manual lifting will probably be the exception, the fact it can be performed by hoisting does not mean that it must be.

In his judgment, Munby J referred to the HSE’s Handling Home Care as the most up to date and appropriate guidance in the context of this case and stated that guidance for other situations, such as the RCN guidance and its focus on nurses in hospitals, “is not necessarily an entirely safe guide in this context.” Indeed, it is arguable that, according to the principles set out by Munby J, he may have considered the policy advocated by the RCN in the fourth edition of its guidance to be unlawful depending on the circumstances.
3.10 Conclusion

Despite the judgment in the *East Sussex County Council* case, which was handed down in 2002, uncertainty over the law on moving and handling has remained. Practitioners continue to be unsure as to the relevant law and the best source of guidance, and can find it difficult to access what information does exist. The extent to which guidance on the law is publicised and disseminated is unclear. The same is true for parents, carers and children and young people themselves who are provided with little information. They are not certain of the law and often see moving and handling regulations as promoting the rights of the employees at the expense of service users. It seems that all involved are seeking and are in need of a definitive statement of the law. 43

It is questionable whether strict policies (such as a no manual lifting policy) which, at first glance, focus on the protection of the practitioners do in fact provide such protection. Practitioners will often carry out manual handling outwith the parameters of such policies because they feel compassion for those with whom they work or believe the policies unworkable in practice. Yet, by continuing to provide manual handling assistance, they may be losing the protection of the law should an incident occur. Moreover, if training excludes safe manual handling on the basis of policies which say that workers should not be doing it, workers will be left unprepared and even more at risk.

From the legal framework outlined in this chapter, it is possible to extract the following key principles that are applicable to the moving and handling of children and young people:

- risk assessments should be carried out on all moves involving a risk of injury to the worker or the child;
- it is only necessary to manage, not eliminate, risk;
- there should be no blanket policies. Instead, risk assessments should be carried out on a case by case basis;
- in assessing risk, regard should be had to rights of both the employee and the child, as well as the child’s autonomy, privacy and dignity;
- children and young people should be involved in decisions made about them, including in risk assessments. Their parents and carers should also be involved;
- risk assessments should be repeated as necessary. For children and young people, assessments may take place more often due to their growth and their weight changing quickly;
- staff must be trained and this training should be kept up to date; and
- equipment used to lift children and young people must be inspected at least every six months.

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43 See also the views of practitioners at p.29 and local authorities in response to our survey at p. 63.

43 In *K v X School and Special Educational Needs and Disability Tribunal* (2007) EWCA Civ 165, a special needs co-ordinator allowed her “heart to rule her head” and continued to lift a pupil despite being instructed not to by the head teacher. In the absence of training, proper equipment and facilities, she was injured.
“WHY CAN THE SAME INDIVIDUAL HAVE DIFFERENT OUTCOMES FROM DIFFERENT ASSESSORS SUPPOSEDLY PRACTICISING FROM THE SAME GUIDELINES?”
Local authorities are largely responsible for implementing moving and handling law and policy. Nonetheless, SCCYP found limited information available publicly about their approach to health and safety issues generally, and moving and handling specifically.

We therefore decided to survey all 32 local authorities in Scotland to find out more about their moving and handling policy and practice and to try to uncover examples of good practice at a local level.  

### 4.1 About the survey

The survey sought to identify what moving and handling policies and procedures local authorities have in place and also covered issues such as staff training, risk assessments, the involvement of young people and their parents in policy and decision making, complaints procedures, advocacy arrangements and lines of responsibility within authorities. It also asked authorities to identify the barriers they face in implementing moving and handling law and policy and what they felt they needed to help overcome these barriers. SCCYP also used the survey as an opportunity to bring to the attention of local authorities guidance that had recently been published online by the HSE but which had not been widely publicised or disseminated.

The survey was sent to local authority Chief Executives, Directors of Social Work and Directors of Education or their equivalents, taking into account the various local structures. It was sent via email on 12th May 2006 with a deadline of 23rd June 2006, giving authorities six weeks to respond. Reminders were sent after four weeks to all local authorities who had not yet responded or who had not otherwise been in touch with SCCYP (for example, to acknowledge receipt of the survey and an intention to action).

The last survey response was not received until late 2006.

### 4.2 Response

All of Scotland’s 32 local authorities responded to the moving and handling survey. However, a total of 47 responses were received – 11 authorities sent two separate responses (for example, one from the education department and one from the social work department) while two authorities sent three responses. Several authorities returned a single survey but made clear that the response was either a ‘corporate’ response, or was a response on behalf of at least two departments (most often the education and social work departments).

<table>
<thead>
<tr>
<th>Type of respondent</th>
<th>Number of responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Education</td>
<td>23</td>
</tr>
<tr>
<td>Social Work</td>
<td>12</td>
</tr>
<tr>
<td>Community Services</td>
<td>2</td>
</tr>
<tr>
<td>Corporate/Joint</td>
<td>7</td>
</tr>
<tr>
<td>Other</td>
<td>3</td>
</tr>
</tbody>
</table>

Each authority dealt with the survey differently with responses being sent to SCCYP from various departments. This was dependent on a number of factors including the structure of the local authority itself as well as the local approach to moving and handling issues. The breakdown of respondents within the authorities (see Table 1) should at least, however, give a flavour of who is seen to be responsible within authorities for moving and handling issues. The majority of the responses reflected moving and handling practice in education – education departments accounted for half of all the responses and education was also represented in almost all of the corporate and joint responses.

It is interesting to note that only one authority (Falkirk) asked a partner service provider from the voluntary sector to respond to the survey. Only one authority (Fife) submitted a response from a leisure facility regarding its approach to moving and handling.
4.3 Policies

Local authorities were asked questions about the existence and nature of moving and handling policies and the authority’s general approach to moving and handling issues.

When asked whether the authority had a moving and handling policy, 38 responses said yes, five said no and two responses failed to answer the question. Two responses stated their policies were currently in draft format. Where authorities stated that they had a moving and handling policy, the survey asked them to provide copies of the policy to SCCYP either in hard copy or electronically. Of the 38 responses which claimed to have moving and handling policies, only 16 provided SCCYP with a copy.

An additional seven authorities did not provide their policies but claimed they were available online. However, following searches of their websites, only two online policies were found.

Authorities were also asked whether their moving and handling policies are publicly available. Unfortunately, there may have been some confusion as to the meaning of this question. By asking this question, we were trying to ascertain whether the policies were freely available (for example, on the authority’s website) not only to authority staff but also to children and young people, families and other members of the public. While 30 responses stated that their policies are publicly available, when asked where the policy was available, many replied ‘on the authority’s intranet’, ‘given to staff’ or ‘on request’. The authorities may have considered this to be ‘publicly available’, but we did not.

In contrast, some of the 13 authorities who stated that their policies are not publicly available nevertheless said that they would be available ‘on request’ or ‘on the intranet’.

Significantly, only one response (from Dundee’s children’s rights service) made any reference to assisting children and young people to understand the policy if they expressed a wish to see it.

Nature of policy

The survey asked authorities whether their policies are ‘stand alone’ moving and handling policies or whether they form part of wider health and safety or risk management policies. The majority of responses stated that their policy forms part of a wider policy – most often, this was the authority’s health and safety/risk management policy (see Table 2).

Only one response referred to a policy that was specific to the moving and handling of children and young people (the response stated that such a policy is being addressed), although it could perhaps be assumed that many of the policies of the education departments who responded to the survey are also child-specific.

<table>
<thead>
<tr>
<th>Nature of policy</th>
<th>Number of responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stand alone moving and handling policy</td>
<td>11</td>
</tr>
<tr>
<td>Part of wider health and safety/risk management policy</td>
<td>19</td>
</tr>
<tr>
<td>Part of wider schools policy</td>
<td>1</td>
</tr>
<tr>
<td>Part of intimate care policy</td>
<td>2</td>
</tr>
<tr>
<td>Part of wider, unspecified policy</td>
<td>5</td>
</tr>
</tbody>
</table>

National policy and practice models

Authorities were asked whether they follow a national policy or practice model on moving and handling and, if so, to state which model. Thirty stated that they follow a national policy or practice model, seven said they do not, and ten either did not know or did not respond to the question.

The models being followed by authorities varied widely with 14 sources of policy and practice being cited and five responses saying they follow a model but not specifying which one. The sources most often referred to in the responses include:
• Health and Safety Executive;
• Royal College of Nursing;
• National Back Exchange;
• the Royal Society for the Prevention of Accidents (ROSPA); and
• Centaur.

Some responses referred to local models that are being followed. The response from North Ayrshire, for example, described how it is a party to the ‘Ayrshire-wide Minimum Standards for the Moving and Handling of People’. These standards were jointly agreed by North, East and South Ayrshire Councils and by the local health board (for more information about the Standards, see paragraph 4.4 below).

One response referred simply to following the legislation and the regulations, while another referred to following the guidance of manufacturers regarding equipment and aids to facilitate physical assistance.

**Responsibility for moving and handling**

The survey asked who within the authority is responsible for moving and handling policy and/or moving and handling issues. Responses to this question varied enormously between authorities, with accountability for moving and handling resting with a range of departments and staff. The responses also showed that, even within authorities, more than one person or one department is responsible for moving and handling. One authority referred to four different departments with responsibility for moving and handling although the extent to which these departments co-operate and co-ordinate with one another was not made clear. Despite holding several staff members ‘responsible’ for moving and handling issues within an authority, some authorities were at least clear which staff this was and how they related to one another. For example, one response said that at a corporate level, a named member of staff has responsibility for moving and handling, while two other members of staff, one in the social work department and one in the education department, also have responsibility.

Only one response referred to there being an ‘inter-agency group’ within the authority with responsibility for moving and handling issues.

What is clear from the responses is that very few authorities have designated moving and handling specialists and even fewer have such specialists with a cross-departmental role.

**Examination of policies provided**

As stated above, of the 37 responses claiming to have a moving and handling policy, only 16 provided SCCYP with a copy. In addition, SCCYP was able to find two policies online.

**Characteristics of the policies**

There was huge variation in the policies provided by authorities in terms of format, what was covered, the approaches taken, length etc. There were, however, common themes to be found. The majority of the moving and handling policies featured sections on:

- the regulatory framework;
- defining what is meant by ‘moving and handling’;
- general principles and objectives;
- responsibilities (often divided into sections covering duties of directors, heads of service, service managers, moving and handling advisers, moving and handling trainers and all staff);
- risk assessments;
- training;
- information on good handling techniques, often referred to in the policies as ‘safe systems of work’;
- moving and handling in emergency situations;
- use of equipment;
- employees who may be at particular risk from injury (usually new or expectant mothers or those with a history of back or other health problems);
- recording accidents, injuries and ‘near misses’;
disciplinary procedures; and
monitoring and evaluation of policy and its operation.

Several policies also included sample risk assessment forms.

Although the issues listed above were common to most of the policies provided, the extent to which each issue was covered and the quality of the information given in the policy varied. For example, the policy of one authority features far more information about training than the others. It covers induction training, basic training, key mover training, trainer training, emergency evacuation training and training records.

In addition to the issues listed above, there were other issues which featured in policies, albeit with less frequency. For example, some policies provide names and contact information for those with responsibility in the authority for moving and handling. Other policies set themselves in the context of the authority’s overall approach to health and safety and describe how they are linked with other policies, such as those on intimate care or general risk management.

Only one policy described lifts and techniques the authority considered to be so dangerous as to be banned from use by all staff regardless of the circumstances.

Only one policy (supplied by Fife’s social work department) referred to external placements – that is, where social services arrange for a service user to be looked after or cared for outside the department, consideration should be given to the moving and handling policies of external agencies. Fife requires that these policies should reflect the aims, values and principles of its own policy.

In addition, Fife’s policy appeared to be the only one which requires services to set out how they will comply with the policy, by asking each service to, “develop and maintain practical written procedures that detail how this policy and associated procedures will be implemented”.

People vs. objects

Many authorities struggled to distinguish between the moving and handling of inanimate objects and the moving and handling of people. While some good lifting techniques and the assessment of risk may be common to both, obviously providing assistance to a child or young person is different and far more complex than lifting a heavy object! The policy supplied by one authority’s education department, for example, refers very briefly to manual handling. Although it mentions the possibility that manual handling can cover the moving of people as well as objects, subsequent information provided in the policy is very much geared towards object handling. Another authority’s policy refers to both the moving of objects and people but, generally, does not differentiate between the two. It does, however, feature a sample assessment form that is particular to the moving and handling of people.

In contrast, Clackmannanshire’s policy makes it clear that its focus is on the moving and handling of people. Its policy on the safer manual handling of children in schools begins by saying: “All children have the right to an adequate and appropriate education… Children’s physical well-being is an integral part of education… Ensuring disabled children’s well-being may involve manual handling.” The policy goes on to give a definition of manual handling that is specific to ‘people handling’ and, therefore, far more meaningful:

“Manual handling is defined as any activity which incorporates the use of bodily force in lifting, lowering, pushing, pulling, carrying, supporting, or otherwise moving a person either wholly or in part. This definition includes assisted walking, transfers from one place to another, handling activities in preparation for movement, handling activities for repositioning and upon completion of movement. It applies whether the movements are carried out completely manually or in conjunction with handling equipment.”
The policies of other authorities covered both the moving of objects and the moving of people and did so in such a way that did not leave the reader feeling that the terms 'objects' and 'people' were interchangeable.

Given that some policies struggled to be meaningful in terms of the moving and handling of people rather than objects, it is no surprise that only a few policies were specific to children. Each of these policies was particular to the authority's education department and concerned the health and safety of pupils at school. While a child-specific moving and handling policy may not be strictly necessary, the needs of children can be quite different from those of adults and some general moving and handling policies do not seem to account for this. For example, staff can quite ably lift young children without any mechanical assistance or aids, and yet general policies – whose focus tends to be on adults – tend to ignore this possibility, often emphasising the use of lifting aids and other equipment.

**Tone/attitude**

Several of the policies provided set the right tone from the start: they begin by talking about the need to balance the rights and welfare of the person receiving assistance with the health and safety of employees. For example, the first paragraph of the policy provided by Dundee's social work department states that:

“The policy takes account of the need to ensure the practice on moving and handling does not place any unreasonable restrictions on clients’ rights to autonomy, privacy or dignity and does not expose employees to an unacceptable level of risk from manual handling activities.”

In contrast, a few of the other policies supplied focus largely on employee safety, barely mentioning the needs of the person receiving the assistance and failing to outline how they should be involved in the assessment process.

**Approach taken to moving and handling**

Generally, the approach taken to moving and handling procedures in the policies is similar: the policies outline the need for assessment of individual service users and describe how this should be done. In East Renfrewshire, however, children receive individual assessments but, to help staff and to make those individual assessments easier, a great deal of work has gone into completing generic assessments which outline how to carry out a range of manoeuvres (including, for example, lifting a pupil from a wheelchair to a stand position; from a chair to a floor mat; from a ballpool to a wheelchair; or from a beanbag to a chair). East Renfrewshire developed this approach by working with staff to analyse the ‘core’ moving and lifting manoeuvres carried out. The risks for each of these manoeuvres were examined and control measures put in place. Thus, when doing an assessment, staff can either use or have regard to the generic assessment, depending on its relevance, and then tailor it to the needs of the individual child or young person. Where a task cannot be compared to any of the generic manoeuvres already assessed, then a new, separate assessment should be carried out.

Two authorities mentioned the separate assessment of premises in their policies, in addition to the assessment of people. Glasgow's moving and handling policy includes a ‘Unit Resource Sheet’, a form to be completed in the assessment of premises. The form covers the working environment and the human resources available at the unit, including how many staff there are, how many have been trained in moving and handling, how recently the training was completed and whether there is a sufficient number of staff to carry out handling tasks.

The policy supplied by Inverclyde’s social work department requires assessments to be carried out for every client receiving residential or day care services, and every unit owned or leased by the authority and being used by clients with moving and handling needs. Its unit
The assessment form asks for details about the unit and its resources, such as the handling aids available at the unit or the bathing, showering and toileting facilities.

**Prohibition on manual lifting**

None of the authorities stated that they had ‘no lifting’ policies in place, although some of the policies provided sometimes seemed to imply that this was the case. For example, by a lack of reference to moving without equipment, one policy implies that equipment must be used in every situation, regardless of the child’s particular circumstances. While a ban on lifting is not made explicit, if it is possible for SCCYP to infer this from reading the policy, it is arguable that authority employees might make the same inference and adjust their practice accordingly.

In contrast to the no lifting policy that seemed to be suggested by one authority, the policy supplied by Inverclyde’s social work department states that no lifting policies can be:

“open to misinterpretation, so that hoists are routinely prescribed for all moves and transfers irrespective of the wishes, and sometimes the needs, of clients. It is not Inverclyde Council Social Work and Housing Services intention to apply these regulations to care plans in this arbitrary manner... it will be our intention to approach the control of moving and handling by a systematic risk assessment programme."

**Sample forms**

Many of the policies provided featured sample forms. The forms varied in length and content, but generally they contained the following information:

- personal details and characteristics – including name, address, age, gender, height, weight, stature;
- mobility – such as balance, ability to bear weight, degree of assistance required;
- medical considerations – such as dioses, whether there are any medical attachments to consider (for example, a catheter), whether the service user experiences involuntary movements or fits;
- communication – including preferred methods of communication, visual or hearing impairments, level of comprehension;
- environmental factors – such as space, temperature, lighting, hazards;
- tasks to be carried out – how the handling task is to be performed, necessary equipment, number of staff required;
- client/carer agreement; and
- review date.

Some forms had additional sections which did not appear in the forms of other authorities. Fife’s ‘Person Handling Assessment and Handling Plan’ form, for example, features a section on cultural considerations, while Inverclyde’s assessment form also covers the transport needs of the service user.

**Inadequate policies**

Four authorities claimed they were providing policies which addressed moving and handling but the documents supplied appeared inadequate. In one case, the document referred in very general terms to health and safety and risk management issues but did not specifically mention moving and handling. In another case, the authority supplied two documents: guidelines on intimate care; and a short briefing on manual handling. While the general approach in the intimate care document is similar to that which should be found in a moving and handling policy, moving and handling issues were not covered per se. Meanwhile, the manual handling briefing referred only to the handling of objects and not people. When taken together, these documents might give a sense of what the authority’s policy on the moving and handling of children might be, but it is not explicitly stated, leaving employees and service users unsure of the position.
Role of children and parents/carers

Some policies said remarkably little about the involvement of service users in the assessment and handling process. Staff working to these policies, therefore, have little guidance on how this should happen. In contrast, other policies went into detail about user-involvement and stressed its importance. Clackmannanshire, for example, stated in its policy that:

“The assessment must be carried out in conjunction with the child’s parent/carer. The child’s wishes must always be taken into account when devising a handling plan. If for any reason it is not feasible to agree to the child’s wishes, reason must be given to the child and parents, and a mutually satisfactory outcome negotiated… Consistency of handling is very important to children with mobility problems, therefore the plan should include information about how the child is normally handled at home, and about their previous experience of being handled.”

Clackmannanshire’s policy also stresses the need to listen to children during the moving and handling process and to be continually aware of their needs:

“The plan should include specific information on pupil response, for example, ‘[pupil’s name] will not make eye contact when unhappy’.”

The policy supplied by Inverclyde’s social work services department describes how user-involvement not only contributes to the care plan for the individual user, but also contributes to the development of moving and handling practices generally:

“Best practice indicates a need to consult and work with the client to find effective solutions tailored to individual needs. This in turn should help to highlight any poor practice and contribute to the development of safer handling practices.”

The policy supplied by Fife’s social work department says that:

“The person’s wishes on mobility assistance should be respected at all times and their independence and autonomy must be supported as fully as possible, whilst having due regard for the safety of all concerned. The person should be supported to exercise choice, as far as is reasonably possible, over how their mobility needs are to be met.”

Fife’s policy requires that:

“Service users must be kept fully involved throughout the assessment process and their views and wishes regarding mobility assistance must be taken into consideration. The results of the risk assessment and the options to address the risks must be discussed and explored with the service user and any informal carer. Agreement must be obtained… before the handling plan is implemented.”

Dispute resolution

Some, but not all, of the policies provide detail about what procedures should be followed if the child or parent does not agree with the risk assessment and resulting care plan.

Clackmannanshire’s policy states that, “If for any reason it is not feasible to agree to the child’s wishes, reason must be given to the child and parents, and a mutually satisfactory outcome negotiated.” The policy goes on to include a section on ‘conflict resolution’, acknowledging that:

“Differences of opinion are perhaps unavoidable in the field of manual handling, and conflict may occur between health and education professionals, between professionals and children and their families. [We] recognise that these differences in opinion can occur while all parties are seeking to act in what they believe to be the child’s best interest.”

The policy does not set out a dispute resolution procedure as such, but states that any difference in opinion should be resolved through negotiation and discussion between the parties. In the end, however, the manual handling adviser will be the arbiter and his or her view will be reflected in the child’s plan.
The policy supplied by Fife’s social work department stresses the importance of user-involvement and notes that even where the user has been involved in the assessment, there may be a reluctance to accept the proposed care plan. Fife acknowledges that this can, “place the service provider in a difficult situation as there are legal duties both to ensure the health and safety of their employees and to provide quality care to service users.” Where there is disagreement, the policy stresses the need to balance the rights and safety of all involved, and recommends that advice be sought from a manual handling key worker or consultant. If disagreement continues, a meeting should be held with the service user, the carer, the relevant manager and any other relevant professionals. If agreement is still not reached, other approaches or options can be tried, with the final option being limitation of service. If the disagreement reaches this point, advice from senior management should also be sought.

In North Ayrshire, an ‘Uncontrolled Risk Protocol’ comes into play when there is disagreement as to the handling plan. The Protocol’s purpose is to show how conflict should be resolved and calls for effective negotiation, referral to responsible individuals, the maintenance of effective records and, ultimately, the control of acknowledged risks. The Protocol sets timescales for referrals and assessments and also includes a timetable for dealing with urgent cases.

4.4 Training

The survey featured a section on training with the authorities being asked:

- whether any of their staff receive moving and handling training;
- which staff receive the training;
- how long the training lasts;
- how often the training is repeated/refreshed; and
- who provides the training.

The authorities were also asked to describe the training provided to staff.

All of the responses we received stated that moving and handling training is provided to staff.

Nature of training

Local authorities were asked to describe the moving and handling training available to staff. Responses to this question were variable – a few simply described the training as a mixture of ‘theory and practice’, while others went into some detail regarding what is covered by the training. The training programmes of several authorities began with guidance on the moving and handling of inanimate objects before going on to discuss the moving and handling of people.

One response described the content of its training as ‘ad hoc’, but noted that this should be changing as a new programme of training has just been established.

The issues covered most often in authorities’ training programmes are:

- the relevant legislation;
- anatomy of the spine;
- principles of moving and handling;
- moving and handling techniques;
- risk assessment;
- the use of hoists and other equipment; and
- opportunities to carry out practice exercises and practice moves.

It should be noted that several responses mentioned some of the issues listed above, but only a few authorities seemed to offer comprehensive training programmes. One of the most comprehensive descriptions of a training programme was received from North Ayrshire, which said that its education services training includes, “personal risk assessment procedures, current legislation, lifting and moving techniques, using hoists, lifting safely”. North Ayrshire’s social services staff receive training on:
“safer movement through the use of the Neuromuscular Approach, risk assessment procedures, current legislation and policies, relevant anatomy and physiology, the importance of back care and posture and risk factors of musculoskeletal injury, solving problems that arise and allowing adequate time for practicing movements, handling tasks and the use of relevant equipment.”

The responses mentioned a number of other training issues although these occurred less often than those listed above (in three or less responses). While there may be some overlap between the issues listed below and those above, often these were mentioned by authorities in addition to the main training components above. Training occurred less frequently on the following:

- employer and employee duties;
- problem solving;
- causes of back pain;
- equipment maintenance;
- reasons for moving and handling;
- health and safety procedures;
- care planning;
- risk control strategies; and
- back care.

Of the 47 responses, 16 specifically mentioned providing moving and handling training that is tailored to children and young people. The majority (nine) of these responses originated from education departments in local authorities, while three were corporate responses, two of which expressly included the authority’s education department. One response which mentioned child-specific moving and handling training was submitted by a voluntary sector organisation providing services on behalf of Falkirk Council. Only three responses from social work departments referred to child and young person-specific training.

Often, the child and young person-specific training took the form of a one-day ‘Moving and Handling of Children’ course. In North Ayrshire, 10 school managers have completed a ‘Handling Children and Risk Assessment Trainers’ Certificate’, while in Clackmannanshire, two members of staff are specially trained to deliver training to other staff in the moving and handling of children and young people.

Some authorities referred to additional training provided to staff who worked with individual children with very complex needs.

**Staff in receipt of training**

The survey asked local authorities which of their staff receive moving and handling training. Many of the responses stated that training is provided to those staff who routinely assist those with mobility difficulties as part of their normal duties. Specific roles referred to most frequently in the responses included:

- teachers, particularly additional support needs teachers, classroom auxiliaries and learning assistants;
- day care, pre-school and other early years and nursery staff;
- home helps, social work carers and residential care staff; and
- occupational health workers.

Just four authorities (Highland, Renfrewshire, Scottish Borders and West Lothian) mentioned providing training to travel escorts. Just one authority (Fife) referred to training for those working in leisure centres.

Very few authorities mentioned training parents or foster carers and often only as a training need that still had to be addressed.

**Length of training**

Local authorities were asked about the length of the moving and handling training they provide to staff. The responses varied enormously, both between and within authorities. Most responses said their training lasts either one day (14 responses) or two days (14 responses). One response said their training lasts three days. However, two authorities stated their training lasts only a half day.
Several authorities said the length of training varied depending on the employee’s needs and their role – this could range from a half day to a full day in some authorities, or one to two days in others. In one authority, some staff complete a seven-day course which includes five days of moving and handling training and two days of risk assessment training. One authority noted that some employees attend a two-year course.

In addition to initial training, several authorities said they offer training ‘as necessary’. This could take place when, for example, an employee encounters a particularly difficult situation in which he or she must physically assist a child and feels that they would benefit from additional training in complex moves. One authority stated:

“for particularly complex cases of manual handling the Department enlists the assistance of a manual handling trainer or physiotherapist to assist with the manual handling assessment, development of safe working procedures and specific on-site training for the staff concerned”.

Several authorities referred to training provision for in-house training staff. This generally ranged from four to five days, often with six monthly reviews for continued accreditation as trainers.

**Frequency of training**

Local authorities were asked to comment on the frequency of training, that is, once initial training on moving and handling has been completed by staff, how often is the training refreshed or repeated? The survey revealed significant variation in how often training is delivered to staff (see Table 3).

Eight responses said training is delivered as and when required, while another eight responses said training is delivered when necessary in addition to the specified review period (such as annually). Several responses gave examples of these ‘as and when’ circumstances.

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Table 3: Frequency of training

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Number of responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Every six months or less</td>
<td>2</td>
</tr>
<tr>
<td>Every year</td>
<td>24</td>
</tr>
<tr>
<td>Every two years</td>
<td>8</td>
</tr>
<tr>
<td>Every three years</td>
<td>2</td>
</tr>
<tr>
<td>As required</td>
<td>8</td>
</tr>
<tr>
<td>As required in addition to specified time period</td>
<td>8</td>
</tr>
</tbody>
</table>

These include when new equipment is introduced and staff are trained how to use it, or when a new law or policy comes into force and staff practice must change as a result.

Five responses specified a training review period, but admitted that this is a standard or target and that it is not always met. One authority delivers training to staff every two years but stated it is trying to increase this to every year. One very truthful response acknowledged that it has “been a while” since training was refreshed.

Several responses noted that the frequency with which training is delivered depended on the employee’s role or on the type of training, thus making comparisons between authorities more difficult. For example, the education staff in one authority receive training every six months, while home care assistants receive training every year.

Several responses referred to authority staff who are trained to deliver moving and handling training to others – in one authority, trainers receive training less frequently (every two years) than other staff (annually), but receive several days training at a time. In contrast, another response said its training staff receive training themselves every six months.

One response noted that training is delivered when identified during an individual employee’s training review.

Several responses volunteered information regarding the length of their refresher training – this was typically either a half day or one full day’s training.
Training provider

The survey asked local authorities to specify who provided moving and handling training to their staff. Fourteen responses stated they use in-house training, eleven use external agencies to deliver training and ten responses stated they use a mixture of both. Ten responses said they operate a key trainer system – key trainers receive moving and handling training from an external agency and then deliver training themselves to their colleagues in the authority.

The survey responses reveal differences within authorities – in one authority, for example, education staff receive in-house moving and handling training while staff in the social work department receive training from an external agency. Two authorities which currently use an external training provider are in the process of developing internal resources to allow in-house training to take place.

The most commonly used external training providers are Centaur Training, ROSPA, Edge Services and North Glasgow College.

Ayrshire-Wide Minimum Standards for the Moving and Handling of People

Particular mention should be made of the Ayrshire-Wide Standards for the Moving and Handling of People which aim to standardise moving and handling training across Ayrshire. Standardisation of training was deemed necessary after staff in Ayrshire noted the diversity of approaches and methods in use. A group comprising representatives of North, South and East Ayrshire councils and NHS Ayrshire and Arran agreed that, in principal, the content, structure and process of training should be common to all courses delivered and purchased by their organisations. The aim of the standards is to:

“enhance the quality of patient/client care and ensure continuity of handling practice experienced by patients/clients irrespective of the provider agency by the adoption of a common approach and minimum acceptable standards”

and to:

“provide a reference framework for all agencies within Ayrshire and Arran who require to provide or purchase moving and handling training”.

The standards “reflect best practice requirements as currently recommended by the National Back Exchange and the Health and Safety Executive” and set out:

- person specifications for moving and handling advisers and manual handling trainers;
- elements of training; and
- facilities, resources and equipment for training.

4.5 Risk assessment

The survey included a section on risk assessments, with authorities being asked who within the authority is responsible for carrying out risk assessments around the moving and handling needs of children and young people. Authorities were also asked about training in relation to risk assessments and how often risk assessments of individual children’s needs and circumstances are carried out.

Risk assessor

Local authorities were asked which of their staff are responsible for carrying out risk assessments around the moving and handling needs of children and young people. The response to this question varied enormously although this was to be expected given the variety of settings in which an assessment may be needed and, therefore, the staff who might carry it out. However, generally speaking, most responses could be divided into the following categories:

- Risk assessments are carried out by the head teacher/line manager/unit manager (17 responses). This category covers those responses from education departments which stated the head teacher is responsible for assessments, and responses from other authority departments which stated that line or unit managers are responsible for assessments.
Risk assessments were carried out at a ‘corporate’ level in nine responses. ‘Corporate’ assessors refers to those assessments carried out by an authority’s health and safety unit, a trained moving and handling and/or risk assessment team within the authority or a designated moving and handling co-ordinator. One authority referred to a designated risk assessment support officer who carries out risk assessments alongside the moving and handling co-ordinator.

In seven of the responses, the assessments could be described as being carried out ‘jointly’. This is where several professionals are involved in the assessment. This could include teachers, teaching support staff, occupational therapists, physiotherapists, educational psychologists, health and safety officers and social workers.

Five responses stated that all staff who have received moving and handling training (which, in their cases, also comprised risk assessment training) may carry out risk assessments.

In addition to designated staff who are responsible for assessments, such as head teachers, several authorities stated these members of staff have access to additional support where needed (for example, while doing a risk assessment on a particularly complex case). Ten of the 47 responses said that assistance is available from within the authority – most often the authority’s health and safety unit or a designated moving and handling co-ordinator. Two responses stated that additional assistance would be provided where needed by an external organisation (a private sector training provider in one case and the local NHS board in the other).

Only a few authorities mentioned ensuring that someone who works with and knows the child well is involved in the assessment. Although this is not specifically mentioned in the majority of the responses, it could be inferred from some that this is actually the case given the role of the assessor (for example, the child’s head teacher).

Although user-involvement in assessments and moving and handling processes is discussed more fully below (see paragraph 4.6), it is worth noting here that several responses refer to the child or young person and parents as being involved in the assessment. Indeed, some of the responses suggest that rather than just being consulted as part of the assessment process, the child or parent is part of the assessment team. The response from the voluntary sector organisation which works within Falkirk described assessments as being done ‘in conjunction’ with families. In Argyll and Bute, the council is working towards responsibility for the assessment lying with care managers and head teachers, but being carried out with the full participation of parents or guardians and the child or young person.

While many authorities may be working jointly with their local health boards on moving and handling and risk assessment issues, only a few responses explicitly referred to current collaborative working. The response from North Lanarkshire’s social work department states that staff who carry out risk assessments are able to request additional assistance from NHS Lanarkshire’s moving and handling co-ordinator where necessary.

The response from North Ayrshire describes what is effectively a joint risk assessment process with occupational therapists based in the social services department assessing the child’s health care and mobility needs in a variety of settings including school and the home environment.

Risk assessment training

The majority of responses reported that relevant staff receive risk assessment training either separately or as part of a wider moving and handling training course. Risk assessment training typically lasts between a half day and two days. In Fife, manual handling ‘linkworkers’ receive four days’ training in addition to the basic two and a half days’ moving and handling training. This extra training covers risk assessment and problem solving.
Training is delivered either in-house or by external training providers, mostly in line with the provision of general moving and handling training (see paragraph 4.4 above).

**Frequency of risk assessments**
When asked how often risk assessments of an individual child’s needs or circumstances are carried out, the majority of responses said ‘as necessary’ or as necessary in addition to a regular review period such as every six months or every year (see Table 4).

Several authorities gave examples of circumstances in which an assessment might be reviewed ‘as necessary’. These included when the child’s condition or medical needs change; when new moving equipment is used; when there are changes in the child’s activities, settings, timetables or transport needs; when problems arise; or at key transition stages in the child’s life (such as moving from primary to secondary school).

Three authorities stated they carry out assessments every year or ‘as requested’.

**Table 4: Frequency of risk assessments**

<table>
<thead>
<tr>
<th>Frequency</th>
<th>Number of responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>As necessary</td>
<td>22</td>
</tr>
<tr>
<td>Biannually or as necessary</td>
<td>5</td>
</tr>
<tr>
<td>Annually or as necessary</td>
<td>14</td>
</tr>
<tr>
<td>Annually or as requested</td>
<td>3</td>
</tr>
</tbody>
</table>

**4.6 User-involvement**

The survey included a section on user-involvement with local authorities being asked whether, and to what extent, children and young people and their parents are included in the development of moving and handling policies generally and in the child’s individual risk assessment.

**Involvement in moving and handling policies**
When asked whether children and young people have been involved in the drafting of moving and handling policies, 38 responses stated that they had not been involved, while only five responses said that they had. Of these five responses, little additional information was given on how young people were involved in the development of moving and handling policies. Four responses said they did not know whether children and young people were involved in developing moving and handling policies or failed to answer this question.

One authority (East Dunbartonshire) which stated that it had not consulted young people in the drafting of its moving and handling policy nevertheless stated that a new education service policy is being developed (of which health and safety and moving and handling issues will presumably form part) and that children and young people are being involved.

Another authority (North Ayrshire) which stated young people were not involved in the drafting of its moving and handling policy stated, however, that its social services department had undertaken a consultation with young people and produced a report and DVD featuring their views on occupational therapy support. This consultation focused on issues around transition to adulthood and has gone on to inform a strategic review of adult services. In addition, the authority’s Child Health Occupational Therapy Services facilitated consultation days with young people which informed professional practice in relation to assessment, the referral process and the management and co-ordination of resources.

**Involvement in risk assessment**
Local authorities were also asked about children and young people’s involvement in the risk assessment process. Thirty three responses said that children are involved in risk assessments, eight responses said they are not, and six responses failed to answer this question.
Where children are involved in the assessment process, authorities were asked to provide additional information about the nature and degree of children’s involvement. The majority of respondents indicated that children are always involved in risk assessments, while several indicated that they are involved ‘where appropriate’ or depending on the child’s age, understanding and ability to make their views known and ‘contribute effectively’.

Stirling Council’s social services response acknowledged that although it tries to involve children in the risk assessment process, “there is a long way to go on full involvement”.

In Angus, children are “given details of the purpose of the assessment and are asked at all stages how this affects them both from a physical and mental perspective”. In Dumfries and Galloway, those carrying out risk assessments ask children for their views by asking questions such as “how do you like to be helped to...?”

During assessments carried out by North Ayrshire’s education department, children are asked to comment on what they find comfortable or uncomfortable. In North Ayrshire’s social services department, “all risk assessment involves careful negotiation, with a requirement to give adequate consideration to the views of the service user and carer, and our Uncontrolled Risk Protocol is in place to identify how to resolve conflicts surrounding the assessment process”. As part of the risk assessment, children and their parents are asked for their views on the equipment to aid moving and handling. In addition, the child’s view is sought on “their own feelings of safety, comfort and their sense of dignity in the process”.

For more comments on user-involvement in the risk assessment process, see paragraph 4.5 above.

Parental involvement

The survey asked local authorities whether and to what extent parents are involved in the risk assessment process.

Thirty seven responses stated that parents are involved in the risk assessment, five responses stated that parents are not involved in the process and five responses failed to answer this question.

Of those responses which said parents are not involved in the process, one stated that parents are merely made aware that an assessment has been undertaken, while another stated that because assessments are school-based, parents are not involved.

It is interesting to note that 37 responses said parents are involved in the risk assessment process compared to only 33 which said children themselves are involved. However, from additional information supplied by the responses regarding parental involvement, it appears that parents are involved to a lesser extent than children. Often, it seems that parents are presented with a fait accompli and merely asked to sign off on risk assessments without being given an opportunity to be involved in the assessment process.

Occasionally, parents are asked to agree to the overall care plan, of which the moving and handling risk assessment only forms part, rather than the assessment itself.

In contrast, some authorities do seem to fully involve parents in the risk assessment. Orkney, for example, stated that parents are involved in discussion around risk assessments, with the reason for the assessment being explained to them, and parents are able to be present and participate in the assessment. Parents are also consulted on the use of any equipment such as hoists and slings. Stirling’s social work department response describes parents as being “the most important source of information” to enable the assessment to be carried out.

One authority stated that parents are informed when an assessment is about to take place and can be present if they wish. However, this statement contradicts an enquiry received by SCCYP from a parent in that authority who was only made aware of an assessment some time after it had been carried out and who struggled to make the authority aware that she was unhappy with the results.
4.7 Complaints and advocacy

Local authorities were asked the following questions regarding complaints procedures and the provision of advocacy should a child or parent wish to raise issues regarding their moving and handling needs:

- If a child is unhappy with the outcome of a risk assessment, the moving and handling assistance they receive or any other part of the process, is there a complaints or appeal procedure?
- If a parent is unhappy with the outcome of a risk assessment, the moving and handling assistance their child receives or any other part of the process, is there a complaints or appeals procedure?
- Is the existence of the complaints/appeals procedure made known to children and young people?
- Is the existence of the complaints/appeals procedure made known to parents?
- Are children and young people given assistance in accessing the complaints/appeals procedure?
- Are children and young people provided with an advocate?
- Has the authority received any complaints around moving and handling issues in the last three years?

Existence of complaints procedures – children and young people

When asked whether there is a complaints or appeals procedure for children and young people should a problem concerning moving and handling arise, 34 responses said yes, eight said no, and five responses either said they did not know or failed to answer the question. The nature of the complaints procedure varied between responses (see Table 5).

<table>
<thead>
<tr>
<th>Type of complaints procedure</th>
<th>Number of responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard authority complaints procedure</td>
<td>21</td>
</tr>
<tr>
<td>Standard service or department complaints procedure</td>
<td>8</td>
</tr>
<tr>
<td>Complain through staff (e.g. head teacher)</td>
<td>7</td>
</tr>
<tr>
<td>Additional support for learning complaints procedure</td>
<td>4</td>
</tr>
<tr>
<td>Complaints dealt with ‘informally’</td>
<td>2</td>
</tr>
<tr>
<td>Complaints dealt with at review</td>
<td>2</td>
</tr>
</tbody>
</table>

In addition, one response from an authority’s education department stated that some schools in its area have pupil councils, suggesting that it thought this might be an appropriate forum in which to raise issues.

Several responses outlined more than one avenue open to children when making a complaint. For example, East Ayrshire noted that children could use the authority’s general complaints procedure, access dispute resolution under the additional support for learning arrangements, or use the dispute resolution policy in operation in the child’s own school.

Several responses made direct reference to complaints procedures that are tailored to the needs of children and young people or implied that such procedures are available. Further information about such procedures was limited. The response from Orkney did state, however, that a range of children’s leaflets are being developed to make the complaints process more accessible to young people.

Existence of complaints procedures – parents

Authorities were also asked whether mechanisms existed for parents to make a complaint if they were concerned about the moving and handling assistance provided to their child. The vast majority (41) of responses said complaints procedures existed for parents, while the remaining six did not know or did not provide an answer.
One response stated that where a parent is unhappy, he or she would be asked to attend a multi-agency meeting to discuss concerns and to consider what steps might be taken next. West Lothian’s response stated that parents and carers are encouraged by staff to express their thoughts and views about any aspect of the child’s care and, if they are unhappy, they are offered the opportunity to discuss their concerns with the service manager. If parents’ concerns are still unresolved, they are advised on how to use the authority’s complaints procedure. In Perth and Kinross, the authority’s complaints procedure is available to parents, but the response notes that, upon receipt of a complaint, service managers may also refer the case to the health and safety department for a review of the risk assessment.

Publicising the complaints procedure – children and young people

While 29 authorities stated that children and young people are made aware of the existence of complaints procedures, the majority were quite vague as to how this happens and responses were tremendously varied. Very few authorities appear to have a formal process for making young people aware of complaints procedures, although one authority did state that this was done at the point of entry to the service, implying that it was routine.

Most authorities seem to take an ad hoc approach to letting children know about complaints procedures – some stated that it was done ‘as necessary’ or ‘if asked for’. Several authorities publish leaflets informing children about the complaints procedure and how to access it.

Five authorities stated that they do not make children aware of the existence of complaints procedures and 13 authorities either did not know how this was done, or failed to answer the question.

Publicising the complaints procedure – parents

Parents fare slightly better than children when it comes to being told about complaints procedures. Thirty seven responses stated that parents are made aware of complaints procedures, two responses said they are not, and eight responses did not know or did not answer the question. Where parents are made aware of the existence of complaints procedures, this happens in a variety of ways but most often through documentation (leaflets, posters, handbooks) issued by the authority which are frequently available in schools or in other authority premises. Only a handful of authorities provide documentation directly to parents. Some parents are informed about how to make a complaint at the point of entry to the service, while others are advised of it if, and when, staff think appropriate.

A number of responses stated that parents are informed of how to complain but failed to provide details as to how this is done.

Accessing the complaints procedure – children and young people

When asked whether children and young people are given assistance in accessing the authority’s complaints procedures, 28 authorities said yes, nine said no, and ten either did not know or failed to answer the question. A number of authorities that answered yes to this question provided very little or no information as to the nature of this assistance. Of those that provided sufficient information, the majority said assistance was provided by staff already working with the child, most often the child’s key worker.
Five authorities said assistance was provided by children’s rights officers or independent advocates.

**Advocacy for child/young person**

Authorities were also asked whether children and young people are provided with an advocate – 23 responses said yes, 13 said no, and 11 responses either did not know or did not answer the question. Of those who did not answer or answered no, some did state that while an advocate would not be provided automatically, if one was requested the authority would try to provide one.

Of the authorities that do provide an advocate, 10 responses said they would arrange for this through an independent advocacy provider. These tend to be voluntary sector organisations such as Children 1st or Quarriers. Seven responses said the authority’s children’s rights officer would act as an advocate, although in one case, the children’s rights officer would only be able to provide advocacy to looked after children. Another two responses said that advocacy could be provided to looked after children with moving and handling needs by the local Who Cares? worker.

Of the remaining responses, some said advocacy would be provided through a general advice and conciliation service while others said staff working with the child, such as a social worker, would be able to advocate on the child’s behalf.

**Complaints received**

The survey asked authorities whether they had received any complaints around moving and handling issues in the last three years and, if so, to provide additional information about the nature of the complaint, whether the complainant was a child or parent, and how the situation was resolved. Ten responses reported complaints had been made or acknowledged other difficulties that had arisen. The majority of responses stated that the complaints had been resolved, with only a few still on-going. The majority (six) of the complaints had been made by parents. One response reported that parents of children with complex needs in mainstream schools had expressed concerns about the use of hoists: their children were being hoisted in front of other children; and parents were also concerned about the time taken to hoist a child several times a day. The response stated these issues had been resolved through discussion and planning meetings at which the safety of both the children and the staff was considered.

Another complaint made by a parent concerned the provision of equipment which would allow the child to access the upper floor of the house in which he received respite care. The parent’s complaint resulted in the appropriate equipment being purchased, enabling the child’s respite care placement to continue.

Three responses stated that the complaints had been received from staff. In two cases, the complaints came from the authority’s own staff, while in the other case, the local NHS staff expressed concern about the amount of training available.

In one case, a young person made a complaint with the support of the authority’s children’s rights officer. The complaint resulted in a change of staff working with the young person and in staff training needs being identified. The response reported that the young person was satisfied with the outcome.

Other complaints concerned the co-ordination of services, a parent feeling they were not engaged in the risk assessment process and another parent concerned at the adequacy of arrangements put in place for a child making the transition to secondary school.

**4.8 Barriers and how to overcome them**

As part of the survey, local authorities were asked what, if any, barriers they face in trying to implement moving and handling policies. In addition, authorities were asked what would make implementation of policies easier for them.
Of the 47 responses received, 37 identified barriers to implementation of moving and handling policies and 33 suggested changes that would make implementation easier. The barriers to implementation and suggestions as to how to overcome them varied amongst the responses but it was possible to identify the common themes outlined below.

Not all of the barriers identified had corresponding suggestions for how to overcome them, but as one response said, “There is no single measure that would make this easier”. This and other responses thought that by raising the profile of moving and handling generally, we could begin to tackle some of the difficulties experienced and promote good practice.

**National guidelines/best practice**

Citing a lack of clarity about the law and policy, several responses identified the lack of information in the form of guidelines or best practice models as a barrier to good practice. They felt that current information focuses too much on the NHS and not enough on moving and handling in non-health settings even though the risk in these settings is often higher due, for example, to environmental considerations. One authority remarked on the lack of nationally agreed standards and another perceived a conflict between legislation and case law and was unsure how to resolve this in practical terms.

The need for national resources and guidance was the suggestion made most often by authorities for how moving and handling difficulties could be addressed. In particular, the authorities’ responses called for examples of good practice, information on accredited courses, national standards and clear and definitive guidance that supports a joint approach to moving and handling and which provides information on what training staff should receive and how often. One response also called for guidance and clarity on whose responsibility it is to carry out risk assessments.

“Although it is [our] policy to provide updated training every three years, there is no set regulation timescale which would encourage consistency of refresher training, although national guidance would be adhered to.”

“Increasingly we are living in a ‘risk averse’ environment, where people are looking to eliminate all risk as opposed to agreeing strategies to manage levels of risk. National guidance to support agencies, organisations and individuals to work together on what best fits an individual’s circumstances would be helpful…”

Other responses received suggest that authorities feel constrained by current guidelines. One stated that, “the current health and safety restrictions placed on staff around lifting and moving children and young people can make it challenging to provide a sensitive, responsive service.” Another response said that moving and handling policy and guidance must be “flexible and not over-prescriptive”. Such an approach would “allow children who are possibly being handled for the first time in their lives by people other than their parents to be reassured and introduced to mechanical aids in a sensitive way and which meets their own needs.”

**Staffing**

Many of the responses identified staff issues as a barrier to effective implementation of moving and handling policies. They cited staff turnover, staff absence and the availability of appropriately trained staff as impediments to sustained good practice. The availability of sufficient numbers of staff is a particular problem in some situations where up to three people could be required to assist a young person safely.

One response also stated that some staff who only provide physical assistance to young people infrequently do not receive any or as much training, thereby compromising their own safety and that of the child or young person.
Another response noted that many classroom assistants who would normally provide physical assistance to children are only on temporary contracts and, therefore, it can be difficult to ensure they receive appropriate training and, if they do, that the training is regularly updated.

A few responses referred to a lack of knowledge and understanding amongst staff, particularly of the importance of health and safety legislation. One response stated that staff attitudes were sometimes a barrier to good practice.

One response from an education department noted that some staff who are required to provide physical assistance have been in post since before this became part of their role. They are therefore not trained, or do not want, to perform moving and handling tasks.

When asked what would make implementation easier for authorities, several responses mentioned staff issues. In particular, the responses mentioned the need for a designated moving and handling person within the authority, with one response stating it wanted:

“designated moving and handling advisers – with a manageable caseload – who are well informed and trained and have access to equipment to trial and use when making assessments.”

Another response which called for dedicated moving and handling posts in authorities said that these posts should be strategic and high profile, and are needed to provide authorities with expert guidance on managing risks.

Indeed, in its response, Dundee City stated that since the appointment of a specialist worker, advice and practice have improved. Along the same lines, another response thought implementation would be easier if every school had a moving and handling policy co-ordinator in place.

One authority noted in its response that it once had a dedicated moving and handling adviser but that this person had left and had not been replaced, leaving a “significant gap” and a “lack of clarity regarding whose role it was to carry out moving and handling risk assessments for individual service users”.

The response noted that this situation is gradually being resolved, but that the tasks previously undertaken by the moving and handling adviser are now being shared amongst physiotherapy and occupational therapy staff in addition to their already large workloads. These staff are, therefore, unable to prioritise their new moving and handling roles.

One response thought implementation of moving and handling policies would be easier if there were sufficient provision of occupational therapists in schools.

**Training**

Many responses identified issues around training as inhibiting good moving and handling practice. The time required to train staff; the sheer number of staff to be trained; covering staff – particularly in schools – while they attend training courses; and the need to constantly update training all present a challenge to authorities. In addition, getting staff to attend training and accessing training when it is actually needed can be difficult.

As mentioned above, some responses felt that clearer guidelines on training would help address these issues. One response suggested a national qualification for additional support for learning assistants which would cover moving and handling issues. Other responses mentioned increased availability of training and the appointment of in-house qualified trainers.

Several authorities referred to the absence of training for parents and carers as a barrier to good moving and handling practice and stated that this should be addressed:

“moving and handling training for the parent and other family members… This could involve informal training and training regarding specific issues.”
**Multi-agency working**

Several responses mentioned a lack of multi-agency working as a barrier to implementation of moving and handling policies and good practice. In particular, they noted that staff in different agencies received different training, resulting in incompatible practice. One response noted difficulties in co-ordination while another described departments and agencies arguing over who pays for what, including who funds staff training:

“people can experience delays in getting a service ... particularly when there are disputes over which department (education or social work) and/or which agency (local authority or NHS) is responsible for provision and funding of equipment.”

Several responses said this lack of co-ordination could be addressed if common policies applied both across departments within authorities and across agencies. Such common policies could be encouraged by the introduction of national guidelines and standards, as mentioned above, and would lead to more consistency in moving and handling practice.

**Financial constraints**

One response stated that, “It is difficult to obtain funding to implement necessary arrangements.” Financial constraints was one of the most commonly mentioned barriers to good moving and handling practice and additional resources was cited by several responses as part of the solution to their difficulties. In particular, they referred to additional resources for trainers and advisers and for equipment and alterations. Responses also called for flexible use of budgets between departments and agencies. One response called for recognition from the government of the resources needed to implement moving and handling policies and good practice.

**Time**

Many responses cited time as a barrier – insufficient time for staff training, insufficient time for authority trainers to deliver training, insufficient time to complete risk assessments and too high a demand on the time of occupational therapy staff. As well as additional staff and financial resources, responses stated that even recognition of the time involved by others might make the training and assessment process easier.

**Equipment**

Some responses referred to issues around equipment. One authority found it difficult to identify suitable aids while another referred to reluctance on the part of families to accept the aids staff use to assist young people safely.

**Environmental factors**

A number of responses referred to environmental factors that impede good practice. These included unsuitable buildings (particularly schools) and the layout and inadequate space in family homes which hinders safer handling. One response also described difficulties in accessing premises to allow modifications to take place.

To address some of these issues, one response suggested that more appropriate environments could be developed through taking greater account of the needs of children with mobility difficulties in the rebuilding and refurbishment of public premises.

**Delays**

A few responses mentioned delays as impeding good practice. This included delays in equipment being provided and delays caused by indecision over who is responsible for funding.
Other barriers and ways to address them

As well as the themes above, other issues were referred to in the responses as posing a challenge to good practice. One authority found it difficult to manage the expectations of parents and carers. It stated that parents expect staff to manually handle children in the same way that parents do, but that this is often contrary to what the authority perceives to be good practice.

One response lamented the lack of a stand alone moving and handling policy within the authority and stated that this had been asked for by staff but to no avail. The same response felt there was a lack of direction on moving and handling, a lack of infrastructure and a lack of administrative support for moving and handling systems.

A lack of direction was also noted by another response which said:

“The authority would benefit from having a sharper focus in this area with one person having the overview in both education and social work.”

4.9 Conclusion

From the results of the survey, it is clear that there is often wide variation in moving and handling practice and that practice does not always accurately reflect law or national policy. Many local authorities are aware of this and are actively looking for assistance to improve practice and to deliver better services to children and young people with disabilities and their families.
“'I like it best when I know the person who’s doing the hoisting. It’s sometimes sore but I tell them and they listen.'
CHAPTER 5: Conclusion and Recommendations

5.1 Conclusion

Our research has shown that issues around moving and handling can cause significant disruption to the lives of children and young people and their families. Poor practice may result in breaches of children's rights, is detrimental to their welfare and certainly limits their enjoyment of life. Our research also shows that good moving and handling practice is possible and is already happening in some areas. Where this is the case, practitioners providing moving and handling assistance contribute to children's physical and emotional welfare, helping to maximise their mobility and independence. 1

To ensure widespread good practice, there should be consistent interpretation of the legal framework, clear and useful guidance, appropriate training and adequate resources. This will give practitioners the practical tools and confidence to make informed decisions about risk and children's care. It is vital that we address moving and handling issues and put effective systems in place now as it has been predicted that the number of children and young people with disabilities in the UK will significantly increase. 2

During our research, a number of related issues were raised and which are a cause of concern either to children and young people, parents, professionals or local authorities. While these issues are outwith the scope of this report, it is useful to mention them here:

- Failures in the provision of wheelchairs and other necessary equipment. Many families described such provision as inadequate and incredibly frustrating.
- Transition from child to adult services. Many young people and their families described huge disparities in service provision once the young person reached the age of 18 or even 16. Uncertainty over whether some services would continue to be delivered caused a great deal of anxiety.
- Inadequate provision of communication aids for children and young people and denial of their right to a voice.
- Inadequate transport infrastructure for children and young people with disabilities which limits their independence and ability to take part in day to day activities.

5.2 Recommendations

With regard to moving and handling issues, there is a tension between reserved and devolved matters. While health and safety law is reserved to Westminster and the lead agency is the UK-wide Health and Safety Executive, responsibility for its implementation lies predominantly in sectors, such as health and education, which are the responsibility of the devolved administration. Relevant agencies must therefore work across the reserved-devolved divide to address the issues identified in this report.

These recommendations are addressed to all those involved in the regulation of moving and handling and the delivery of services to children and young people with disabilities. The Scottish and UK Governments, the Scottish and UK Parliaments, the Health and Safety Executive, local authorities, health boards, schools and colleges, voluntary sector providers, inspectorates, trade unions, professional bodies, practitioners and others all have a role to play in ensuring that moving and handling does not continue to negatively impact the lives of children and young people and their families in the way that it so often currently does.
Our research also identified the need for improved information about moving and handling for children and young people and their families. At SCCYP, we will work to produce such information (for example, a leaflet) although this should be seen as supplemental to a service provider’s own duty to provide information to service users.

As well as the specific recommendations set out below, many other steps can be taken to address the issues highlighted in this report. We urge central and local government and all service providers to carefully consider our findings and explore how they can contribute to the well-being of children and young people with disabilities.

Law
1. The substance of the law set out in Acts of Parliament does not require amendment. It just needs to be made better known and be better explained to professionals and the public, including young people.

2. Consideration should be given to amending regulations governing the manual handling of ‘loads’ so as to clearly distinguish between the handling of persons and inanimate objects, and to take account of the additional factors involved, that is, the need to balance health and safety concerns with the rights and dignity of the person receiving assistance.

Guidance
3. National guidance, applicable to all contexts, should be produced to emphasise that practice must be consistent with the human rights and dignity of the person being moved and must take their views and preferences into account. It should acknowledge that agencies might wish to develop guidance specific to their own context, but should insist that this must be consistent with the national guidance.

4. The national guidance should:
   a) Prohibit blanket ‘no lifting’ policies.
   b) Address the training of workers.
   c) Address issues specific to children, for example, the need to communicate in an appropriate way, to involve parents as appropriate and the need to regularly review the child’s moving and handling needs to take account of their growth and development.
   d) Be developed in association with stakeholders including service users.

Practice
5. Service providers\(^3\) should review and monitor their policies to take into account the conclusions and recommendations of this report, even in advance of the production of new national guidance.

6. Service providers should ensure there are clear lines of responsibility and accountability for moving and handling, and should consider appointing a person to lead on this issue.

7. Care plans, risk assessments and fire evacuation procedures must be realistic and their development must involve the service user. Service providers should acknowledge that individual care plans that are too risk averse or insensitive to the rights and feelings of the person receiving the service may be ignored in practice. This may make both service users and workers more vulnerable to injury or liability.

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\(^3\) ‘Service providers’ should be interpreted as all organisations providing moving and handling assistance as part of its service to children and young people. This could include local authorities, health boards, voluntary sector organisations, independent schools etc. It also includes service providers in the private sector.
8. Service providers should ensure staff are trained and that training is updated regularly. They should consider providing training that is specific to the needs of children and young people and that includes aspects such as disability awareness.

9. Service providers should provide training on moving and handling for parents and carers as well as for workers.

Practical measures

10. Consideration should be given to the standardisation of hoists and slings and other mobility equipment, either through agreement with manufacturers or through purchasing decisions across Scottish agencies.

11. In the planning of new buildings and facilities, such as schools or leisure centres, regard must be had to their accessibility, to involving service users in their design and to ensuring they are appropriately equipped to meet the needs of service users. In particular, adequate toilet facilities must be made available.

12. Service providers should adopt a positive, problem-solving approach to resolving any disagreements over the moving and handling assistance to be provided. This approach should involve the child or young person and parent. However, as a last resort, service providers should have a complaints procedure that is accessible to children and young people and to parents. If the complainant is a child or young person, they should be provided with advocacy support to make their complaint.


HANDLE WITH CARE
A REPORT ON THE MOVING AND HANDLING OF CHILDREN AND YOUNG PEOPLE WITH DISABILITIES

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