



BRIEFING PAPER

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Child protection: duties to report concerns (England)

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Summary

This House of Commons Library Briefing Paper sets out the current requirements on individuals and organisations regarding the reporting of known or suspected child abuse or neglect. It also provides information on the debate around whether a mandatory duty to report abuse or neglect should be introduced in England, and outlines the operation of such mandatory duties in other countries.

Current position

There is no general legal requirement on those working with children in England to report known or suspected child abuse or neglect. Nevertheless, the statutory guidance, [Working Together to Safeguard Children](#), states that “anyone who has concerns about a child’s welfare should make a referral to local authority children’s social care and should do so immediately if there is a concern that the child is suffering significant harm or is likely to do so.” While statutory guidance does not impose an absolute legal requirement to comply, it requires practitioners and organisations to take it into account and, if they depart from it, to have clear reasons for doing so.

Non-statutory advice published by the Department for Education, [What to do if you’re worried a child is being abused](#), complements the statutory guidance and aims to help practitioners identify child abuse and neglect and take appropriate action in response.

In addition, a number of professional regulators and bodies (predominantly those in the health and social care sectors) require their members to report any concerns about a child’s safety or well-being. A professional’s failure to adhere to such standards or codes of conduct may result in misconduct or fitness to practise proceedings against them.

Mandatory reporting duty

There have been calls for a mandatory duty to report known or suspected child abuse and neglect to be introduced for specific groups, such as social workers and teachers. Proponents argue that a mandatory reporting duty would offer greater protection to children.

In July 2016, the Government launched a consultation which sought views on two possible reforms in relation to reporting child abuse and neglect:

- The introduction of mandatory reporting of child abuse and neglect.
- The introduction of a duty to take appropriate action in relation to child abuse or neglect.

In its response to the consultation, published in March 2018, the Government stated that it had decided against introducing either a mandatory reporting duty or a duty to act. While recognising the argument that mandatory reporting could reduce the risk that serious cases pass unnoticed, the Government response raised a number of risks associated with such a duty or a duty to act.

Mandatory reporting in other countries

Since April 2016 certain public bodies in Wales have been under a duty to inform the local authority if they have “reasonable cause to suspect that a child” is experiencing or is at risk of abuse, neglect or other kinds of harm; or has care and support needs. The duty applies at an organisational level, rather than to individuals.

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Mandatory reporting laws also exist in a number of other countries internationally, including Australia, Brazil, Canada, Denmark, France, Hungary, the Republic of Ireland, Israel, Norway and the United States.

Although there is significant variation, the core components of mandatory reporting laws include:

- Who is covered by the duty
- What must be reported
- Who the report must be made to
- Sanctions for failing to report

In an annex to its 2016 consultation the Government stated that a lack of academic consensus concerning the effects of mandatory reporting means that it is not possible “to make firm conclusions about whether such schemes improve, worsen, or have no affect on child safeguarding outcomes.”

1. Current position

1.1 Responsibility of individuals to raise concerns

Local authorities in England have overarching responsibility for safeguarding and promoting the welfare of children in their area. As part of this, they have a number of statutory functions under the 1989 and 2004 Children Acts. This includes undertaking assessments of children who are in need or are suffering, or likely to suffer, significant harm in order to determine what services should be provided and what action should be taken.¹

Box 1: Safeguarding partners and local safeguarding arrangements

Under the *Children Act 2004*, as amended by the *Children and Social Work Act 2017*, three safeguarding partners – the local authority, NHS Clinical Commissioning Groups (CCGs), and police forces – are responsible for determining how safeguarding arrangements should work in their area for them and relevant agencies. “Relevant agencies” is a term used for all bodies and groups within an area which play a crucial role in coordinating the safeguarding and welfare of children. The *Working Together to Safeguard Children* statutory guidance states that the purpose of these local arrangements is to enable organisations to work together in a system where, among other things, “there is early identification and analysis of new safeguarding issues and emerging threats.”²

While local authorities play the lead role, the statutory guidance [Working Together to Safeguard Children](#) stresses that “everyone who works with children has a responsibility for keeping them safe.” “Everyone who comes into contact with [children and families]”, it says, “has a role to play in identifying concerns, sharing information and taking prompt action.”³

While there is no general legal requirement on those working with children to report either known or suspected child abuse or neglect, the statutory guidance states that “anyone who has concerns about a child’s welfare should make a referral to local authority children’s social care and should do so immediately if there is a concern that the child is suffering significant harm or is likely to do so.” It adds that practitioners who make a referral should always follow up their concerns if they are not satisfied with the response.”⁴ While statutory guidance does not impose an absolute legal requirement to comply, it requires practitioners and organisations to take it into account and, if they depart from it, to have clear reasons for doing so.⁵ Annex C of the Government’s 2016

¹ Further information on local authorities’ statutory safeguarding duties is provided in Library Briefing 6787, [An overview of child protection legislation in England](#), and in pages 21-55 of HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), July 2018.

² HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), July 2018, p73.

³ As above, p10.

⁴ As above, p16.

⁵ HM Government, [Reporting and acting on child abuse and neglect: Government consultation](#), July 2016, p5.

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consultation on reporting and acting on child abuse and neglect (see section 2 below) provided information on the possible sanctions where a person fails to follow the guidance.⁶

Local authority children's social care is responsible for clarifying the process for referrals and should, the guidance states, "act as the principal point of contact for safeguarding concerns relating to children." The guidance adds that, as well as developing protocols for practitioners working with children and families, "contact details should be signposted clearly so that children, parents and other family members are aware of who they can contact if they wish to make a referral, require advice and/or support."⁷

Advice for individuals

Government non-statutory advice, [What to do if you're worried a child is being abused](#), complements the Working Together statutory guidance. The advice aims to help practitioners identify child abuse and neglect and take appropriate action in response. It is intended for anyone whose work brings them into contact with children and applies in relation to all children irrespective of whether they are living at home with their families and carers or away from home.

The advice sets out some guiding principles for people who encounter children during their normal working activities [emphasis in original]:

You should make sure that you are **alert** to the signs of abuse and neglect, that you **question the behaviour** of children and parents/carers and don't necessarily take what you are told at face value. You should make sure you know where to turn to if you need to **ask for help**, and that you **refer** to children's social care or to the police, if you suspect that a child is at risk of harm or is immediate danger.⁸

Further information on each of these principles is provided in a section of the advice on "taking action" (pages 11-15).

The advice states that practitioners should make sure they understand and work within the local safeguarding arrangements in their area. They should also, it says, "not let other considerations, like the fear of damaging relationships with adults, get in the way of protecting children from abuse and neglect." If a person thinks a referral to children's social care is necessary, they "should view it as the beginning of a process of inquiry, not as an accusation."⁹

Other non-statutory obligations to report concerns

Members of a number of professions – including healthcare workers, social workers, police and teachers – are expected to adhere to professional standards or codes of conduct. A briefing note published by the Independent Inquiry on Sexual Abuse noted that most codes of

⁶ HM Government, [Reporting and acting on child abuse and neglect: Government consultation: supporting annexes](#), pp11-13.

⁷ HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), July 2018, p16.

⁸ HM Government, [What to do if you're worried a child is being abused: Advice for practitioners](#), March 2015, p4.

⁹ As above.

conduct or standards require professionals to report concerns about a colleague's fitness to practice, "which would include any concerns related to sexual abuse of children or adults." The note added that:

A number of professional regulators and bodies (predominantly those in the health and social care sectors) specify that their members should report any concerns about a child's safety or well-being, regardless of the identify of the suspected perpetrator or the setting. A professional's failure to adhere to standards or codes of conduct may result in misconduct or fitness to practise proceedings against them.¹⁰

1.2 Organisational responsibilities

Section 11 of the *Children Act 2004* places a duty on a range of agencies and individuals to ensure that their functions, and any services they contract out to others, are carried out having regard to the need to safeguard and promote the welfare of children. The duty applies to:

- Local authorities and district councils
- NHS organisations, including NHS England, clinical commissioning groups, NHS trusts, NHS Foundation Trusts, and General Practitioners
- The police, including the chief officer of each police force in England and Mayor's Office for Policing and Crime in London.
- The British Transport Police
- The National Probation Service and Community Rehabilitation Companies
- Governors/Directors of Prisons and Young Offender Institutions
- Directors of Secure Training Centres
- Principles of Secure Colleges
- Youth Offending Teams/Services.¹¹

The statutory guidance, [Working Together to Safeguard Children](#), sets out the arrangements that organisations subject to the section 11 duty should have in place. These include (but are not limited to):

- Clear whistleblowing procedures and a culture that enables issues around safeguarding and promoting the welfare of children to be addressed.
- Clear escalation policies for staff to follow when their child safeguarding concerns are not being addressed within their organisation or by other agencies.
- A designated practitioner for child safeguarding.

The guidance adds that staff in these organisations should be given a mandatory induction, "which includes familiarisation with child

¹⁰ Independent Inquiry into Child Sexual Abuse, [Seminar briefing note: Mandatory reporting: Existing obligations to report child sexual abuse](#), September 2018, pp3-4.

¹¹ HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), July 2018, p55.

protection responsibilities and the procedures to be followed if anyone has concerns about a child's safety and welfare."¹²

The guidance also summarises further safeguarding duties placed on individual organisations and agencies, including schools, though other statutes.¹³

2. A mandatory duty to report suspected abuse and neglect

As set out in section one above, in England there is currently no general legal requirement on those working with children to report known or suspected child abuse or neglect. There have been calls, in particular following high profile child abuse cases such as the 2013 murder of Daniel Pelka, for a mandatory duty to be introduced for specific groups, such as social workers and teachers.¹⁴ Proponents of mandatory reporting argue that England should follow the example of countries where it is a criminal offence for certain professionals not to report suspected child abuse to the authorities. They contend that doing so would offer greater protection to children.¹⁵

Box 2: Common law duty negligence

In common law jurisdictions like England, laws relating to negligence require any person to take reasonable steps to prevent harm to those to whom they owe a duty of care. A briefing note published by the Independent Inquiry into Sexual Abuse noted, however, that these laws are not themselves considered mandatory reporting laws and "in jurisdictions that have mandatory reporting, the relevant legislation coexists with these more general duties and does not replace them."¹⁶

2.1 Government consultation

In July 2016, the Government launched a [consultation on Reporting and acting on child abuse and neglect](#). The consultation sought views on two possible reforms in relation to reporting and acting on child abuse and neglect:

- **The introduction of mandatory reporting of child abuse and neglect.** This would require certain practitioners or organisations to report child abuse or neglect if they knew or had reasonable cause to suspect it was taking place. A range of sanctions for those who breach the duty could be made available.
- **The introduction of a duty to act.** This would require certain practitioners or organisations to take appropriate action (which

¹² HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), July 2018, pp55-6.

¹³ As above, pp58-71.

¹⁴ See for example, [Starved boy Daniel Pelka 'invisible' to professionals](#), 17 September 2013, BBC News; [Daniel Pelka: call for debate on mandatory reporting of child abuse](#), Guardian, 17 September 2013.

¹⁵ For example, see [HC Deb 12 September 2013, c1234](#).

¹⁶ Independent Inquiry into Child Sexual Abuse, [Seminar briefing note: Mandatory reporting: Existing obligations to report child sexual abuse](#), September 2018, p2.

could include reporting) in relation to child abuse or neglect if they knew or had reasonable cause to suspect it was taking place.

The consultation set out the possible benefits, risks and issues associated with both potential reforms. It also provided more information on their scope, including who might be subject to them, where accountability might rest and the possible sanctions for breaches.¹⁷

Government response

In its response to the consultation, published in March 2018, the Government reported that a majority of respondents agreed that both a duty to act (51% of respondents) and a mandatory reporting regime (68% of respondents) would have an adverse impact on the child protection system.¹⁸

The Government stated that it had decided against introducing a mandatory reporting regime or duty to act:

Having considered all of the evidence and the views raised by the consultation, the Government believes that the case for a mandatory reporting duty or duty to act has not currently been made. Therefore, we do not intend to introduce a mandatory reporting duty or duty to act at this time.

While recognising the argument that mandatory reporting could reduce the risk that serious cases pass unnoticed, the Government response raised a number of risks associated with a mandatory reporting duty or a duty to act. These included:

- Even with an increase in referrals, this would not necessarily lead to an increase in subsequent engagement with children. It could also create a 'needle in a haystack' effect in which it is less likely that key cases are identified.
- A mandatory reporting duty could lead to less consideration of the most appropriate stage for referrals and result in a 'tick box' approach.
- Mandatory reporting will not itself improve the quality of practitioners' judgement.
- If disproportionate attention is placed on referrals and reporting, organisations outside social care may be deterred from working effectively with children on lower-level issues and instead think that once a report is made they have discharged their responsibilities.
- A duty to act does not itself support judgements about what action to take and "risks creating defensive barriers to effective decision making rather than trust in practitioners to discharge the obligations to act they already have."
- The increased intervention in the lives of children and families that is to be expected if mandatory reporting or a duty to act were

¹⁷ HM Government, [Reporting and acting on child abuse and neglect: Government consultation](#), July 2016, pp12-21.

¹⁸ HM Government, [Reporting and acting on child abuse and neglect: Summary of consultation responses and Government action](#), March 2018, p3.

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introduced duty or duty to “may undermine confidentiality for those contemplating disclosure of abuse with victims more reluctant to make disclosures if they know that it will result in a record of their contact being made.”

The Government’s response concluded:

Most fundamentally, the evidence and submissions received through the consultation has not demonstrated conclusively that the introduction of a mandatory reporting duty or a duty to act improves outcomes for children. This must be our guiding consideration when considering such a major reform of such a vital service.

What the consultation has shown us, together with serious case reviews and Ofsted inspections, is that professional experience and other evidence generally does not find reporting to be a key issue in cases where a child is failed. Whether a child is already known to social care or not, translating practitioners’ knowledge of a child’s ongoing needs into appropriate support can be the difference between life and death. Such evidence suggested that issues around information sharing, professional practice and decision making are more likely to be at the crux of incidents where children do not receive the protection they need.¹⁹

Box 3: Duty to report female genital mutilation (England and Wales)

Under section 74 of the *Serious Crime Act 2015* teachers, health professionals and social workers in England and Wales are under a duty to notify the police if they discover that an act of female genital mutilation (FGM) has been carried out on a girl under the age of 18. The duty came into force on 31 October 2015. Further information is available in guidance published by the [Home Office: Mandatory Reporting of Female Genital Mutilation – procedural information](#).

The Act did not introduce any new sanctions for failure to report FGM. The procedural information states that “failure to comply with the duty will be dealt with in accordance with the existing performance procedures in place for each profession.” The duty only applies to cases where FGM has already taken place (or is thought to have already taken place). In cases of suspected FGM a referral should be made to local authority children’s social care, in line with the Working Together guidance.²⁰

The Government’s consultation on reporting and acting on child abuse and neglect (see section above) stated that the duty was introduced “in order to address the particular issue of lack of successful prosecutions.”²¹

2.2 Mandatory reporting in other countries

Wales

Under section 130 of the *Social Services and Well-being (Wales) Act 2014* certain public bodies in Wales are under a duty to inform the local authority if they have “reasonable cause to suspect that a child” is:

- Experiencing or is at risk of abuse, neglect or other kinds of harm
- Has needs for care and support

¹⁹ HM Government, [Reporting and acting on child abuse and neglect: Summary of consultation responses and Government action](#), March 2018, pp5-6.

²⁰ Home Office, [Mandatory Reporting of Female Genital Mutilation – procedural information](#), last updated 1 December 2016, pp11 &

²¹ HM Government, [Reporting and acting on child abuse and neglect: Government consultation](#), July 2016, pp4-5.

The duty came into effect on 6 April 2016. It applies to local authorities, police, providers of probation services, local health boards, NHS trusts and Youth Offending Teams (“relevant partners” of the local authority). The duty applies at an organisational level, rather than to individual working within these organisations. The Act did not create a sanction for failing to report a child at risk.²²

Further information on the duty is available in statutory guidance published by the Welsh Government: [Working together to safeguard people volume 1: introduction and overview](#) (pages 22 to 23).

Other countries

A briefing note published by the Independent Inquiry on Sexual Abuse noted that mandatory reporting laws exist in a number of countries internationally, including Australia, Brazil, Canada, Denmark, France, Hungary, the Republic of Ireland, Israel, Norway and the United States.

While noting that there is significant variation in how mandatory reporting works, both within and between countries, the briefing identified the core components of mandatory reporting laws:

- **Who is covered by the duty:** most mandatory reporting laws specify a list of mandated reporters. These are most commonly people employed in education, health and social care. Some jurisdictions, however, have a lengthier list of mandated reporters and in a minority of jurisdictions mandatory reporting applies to all adult citizens (e.g. Australia’s Northern Territory and some US states). The duty usually applies to individuals but, as noted above, in Wales it applies to organisations.
- **What must be reported:** mandatory reporting laws can focus on different categories of child abuse. The first mandatory reporting laws concerned only physical abuse. They now usually cover all forms of abuse, but they may use different thresholds for different forms of abuse.
- **Who the report must be made to:** all mandatory reporting laws specify the agency to whom the report must be made. This is usually social services or child protective services but may be the police. In some jurisdictions, there is a dedicated agency whose remit is to receive reports.
- **Sanctions for failing to report:** most, but not all, mandatory reporting laws provide for sanctions for failure to report. Such sanctions may be criminal in nature – i.e. a fine or custodial sentence (e.g. France). Some jurisdictions, however, do not impose a sanction (e.g. New South Wales, Australia).

Annex D of the Government’s consultation on reporting and acting on child abuse and neglect (see section 2.1 above) similarly set out the variations between mandatory reporting laws internationally. A table at

²² Independent Inquiry Child Sexual Abuse, [Seminar briefing note: Mandatory reporting: Existing obligations to report child sexual abuse](#), p2.

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the end of annex then categorised international models of mandatory reporting according to these criteria.²³

The Annex also stated, however, that care should be taken when generalising about features of reporting systems and that “models of mandatory reporting may be best understood alongside a jurisdictions overall approach to child protection.” It explained:

For example, some approaches are best conceptualised as family/child welfare oriented, with services provided to families to strengthen bonds and improve home life. Abuse is seen as part of a wider pattern of problematic relationships and behaviours. Areas with this type of system that have mandatory reporting include Denmark, Finland and Sweden; while Belgium, Germany and The Netherlands are examples of countries with similar systems but no mandatory reporting.

Other types of approaches can broadly be conceptualised as child protection oriented, where abuse is seen as an aberrant behaviour that needs to be identified and acted upon. Particular families are identified as a ‘problem’ and then monitored. This is the type of system that would best describe that in England. Other examples include Canada, USA and Australia.

There is, however, decreasing differentiation between systems as investigative systems seek to become more family support oriented and welfare centric systems implement greater regulation and process...

Mandatory reporting tends to be more prevalent in investigative systems, which focus on identifying abnormal behaviours rather than necessarily working systematically with families to improve home life.²⁴

The Annex also included a discussion of the effectiveness of mandatory reporting in addressing child abuse and neglect. It concluded that “there is no academic consensus concerning the effects of mandatory reporting on child safety outcomes.” As a result, it added, it is not possible “to make firm conclusions about whether such schemes improve, worsen, or have no affect on child safeguarding outcomes.”²⁵

²³ HM Government, [Reporting and acting on child abuse and neglect: Government consultation: supporting annexes](#), pp18-20 & 30-35.

²⁴ HM Government, [Reporting and acting on child abuse and neglect: Government consultation: supporting annexes](#), p19.

²⁵ HM Government, [Reporting and acting on child abuse and neglect: Government consultation: supporting annexes](#), p20.

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