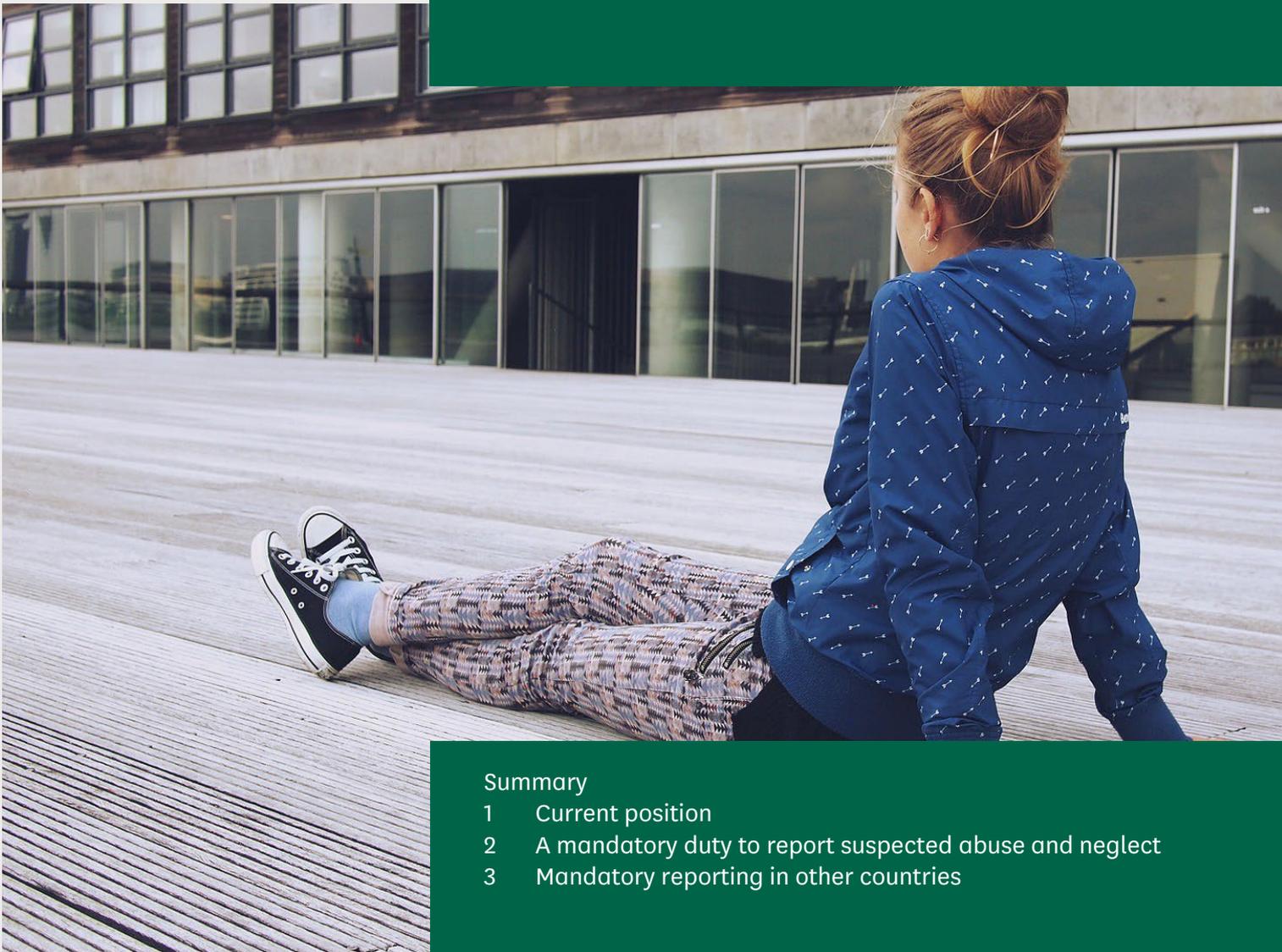


Research Briefing

28 February 2024

By David Foster

Duties to report child abuse in England



Summary

- 1 Current position
- 2 A mandatory duty to report suspected abuse and neglect
- 3 Mandatory reporting in other countries

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Summary

This briefing predominantly relates to England but also includes information on the position in other countries, including Wales.

Current position

There is currently no general statutory obligation for individuals in England to report child abuse. [Government statutory guidance on safeguarding](#), says “anyone who has concerns about a child’s welfare should consider whether a referral needs to be made 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 this does not impose a legislative requirement to report abuse, it creates an expectation that those working with children will comply with the guidance unless there are exceptional circumstances.

In addition, some individuals are required to report child safeguarding concerns under standards or codes of conduct set by their professional regulatory body. A failure to adhere to such standards may result in misconduct or fitness to practise proceedings against them.

Mandatory reporting duty

There have been calls for the introduction of a mandatory duty to report known or suspected child abuse for specific groups, such as social workers and teachers. Proponents argue that a mandatory reporting duty would offer greater protection to children. However, others fear it could create a ‘needle in the haystack’ effect and result in a ‘tick-box approach’.

Independent Inquiry into Child Sexual Abuse

[The final report of the Independent Inquiry into Child Sexual Abuse](#), published in October 2022, said children had suffered as a result of “a marked absence of a cohesive set of laws and procedures in England and in Wales that require individuals working with children to report child sexual abuse”.

The report recommended the UK Government and the Welsh Government introduce legislation placing certain individuals under a statutory duty to report child sexual abuse in prescribed circumstances (for example, where they observe recognised indicators of sexual abuse).

The report recommended it should be a criminal offence for mandated reporters to not report child sexual abuse when a child or perpetrator discloses it to them, or they witness a child being sexually abused.

Government commits to introducing mandatory reporting duty

In April 2023, [the UK Government committed to introduce, subject to consultation, a mandatory reporting duty](#) for those working or volunteering with children to report child sexual abuse.

Following on from an [earlier call for evidence](#), on 2 November 2023, the Government launched a [consultation setting out proposals for a mandatory reporting duty](#) and seeking views on “a small but significant set of undecided policy questions.” The consultation closed on 30 November.

In February 2024, the Government [confirmed a mandatory reporting duty would be introduced](#) through amendments to the Criminal Justice Bill at its Commons report stage, [a date for which has not yet been set](#).

Mandatory reporting in other countries

Since April 2016 [certain public bodies, but not individuals, in Wales have been under a duty](#) to inform the local authority if they have “reasonable cause to suspect that a child” who has needs for care and support is at risk of abuse, neglect or other kinds of harm. There are no criminal sanctions for individuals who fail to report a child at risk.

[The Welsh Government accepted the recommendation of the Independent Inquiry into Child Sexual Abuse “in principle”](#) and said, among other things, that it would “explore the implications of placing duties to report children and adults at risk, on individuals”.

Mandatory reporting laws exist in several other countries internationally, including the majority of countries in Europe and some parts of the US, Canada and Australia.

Although there is 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.

1 Current position

1.1 Responsibility of individuals to raise concerns

There is currently no general statutory obligation for individuals in England to report child abuse.

Statutory guidance published by the Government, [Working Together to Safeguard Children](#), states that that “anyone who has concerns about a child’s welfare should consider whether a referral needs to be made 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.”¹

While this does not impose a legislative requirement to report abuse, it creates an expectation that those working with children will comply with the guidance unless there are exceptional circumstances.²

1 Local authority safeguarding enquiries

Local authorities in England have several duties relating to safeguarding and promoting the welfare of children in their area. This includes a duty under [section 47 of the Children Act 1989](#) to investigate whether action is needed to safeguard a child where there is reasonable cause to suspect they are suffering, or are likely to suffer, significant harm.³ Further information is provided in the Library briefing: [An overview of child protection legislation in England](#).⁴

[Annex C of the Government’s 2016 consultation on reporting and acting on child abuse and neglect](#) (PDF) (see section 2.3 below) provided information on the possible sanctions where a person fails to report child abuse. This could, for example, include disciplinary action taken by an employer in cases of misconduct.

¹ HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), December 2023, para 150.

² [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, p219.

³ Children Act 1989, section 47. Further information on local authorities’ statutory safeguarding duties is provided in Commons Library briefing CBP-6787, [An overview of child protection legislation in England](#), and chapter one of HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), July 2018.

⁴ Commons Library briefing CBP-6787, [An overview of child protection legislation in England](#).

While there is no single criminal sanction which could be used in cases of failure to protect a child more generally, there are criminal sanctions for some types of malpractice. For example, it is an offence for a person to conceal an arrestable offence where they have accepted money or some other form of compensation for doing so.⁵

2 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 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](#).⁶

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.”⁷

The Government’s 2016 consultation on reporting and acting on child abuse and neglect said the duty was introduced “in order to address the particular issue of lack of successful prosecutions”.⁸

Advice for individuals

Government non-statutory advice, [What to do if you’re worried a child is being abused](#), 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

⁵ HM Government, [Reporting and acting on child abuse and neglect: Government consultation: supporting annexes \(PDF\)](#), pp11-13.

⁶ Home Office, [Mandatory reporting of female genital mutilation: procedural information](#), last updated 22 January 2020.

⁷ Home Office, [Mandatory reporting of female genital mutilation: procedural information](#), last updated 22 January 2020, pp11.

⁸ HM Government, [Reporting and acting on child abuse and neglect: Government consultation](#), July 2016, pp4-5.

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.⁹

Further information on each of these principles (‘be alert’, ‘question behaviours’, ‘ask for help’, and ‘refer’) is provided in a section of the advice on “taking action” (pages 11 to 15).

The advice says practitioners should work within the local safeguarding arrangements in their area. It adds that they should “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”.¹⁰

3 Common law duty of 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.”¹¹

Other non-statutory obligations to report concerns

Some individuals are required to report child safeguarding concerns under standards or codes of conduct set by their professional regulatory body. This includes, for example, healthcare professionals, social workers, the police and teachers.

The [final report of the Independent Inquiry into Child Sexual Abuse](#) further explained:

In the main, that requirement is part of professionals’ obligations to ensure the safety and well-being of the members of the public with whom they work and to raise concerns about colleagues. A professional’s fitness to practise may be brought into question if they fail to adhere to such standards. If a professional is found to be unfit to practise, they can be removed from the professional register and prevented from practising. The effect of this is that specific

⁹ HM Government, [What to do if you’re worried a child is being abused: Advice for practitioners](#), March 2015, p4.

¹⁰ HM Government, [What to do if you’re worried a child is being abused: Advice for practitioners](#), March 2015, p4.

¹¹ Independent Inquiry into Child Sexual Abuse, [Seminar briefing note: Mandatory reporting: Existing obligations to report child sexual abuse \(PDF\)](#), September 2018, p2.

requirements to report children experiencing, or at risk of, abuse, neglect or other harm are generally set out in accompanying guidance.¹²

1.2

Organisational responsibilities

[Section 11 of the Children Act 2004](#) places a duty on a range of agencies and individuals to ensure they have regard to the need to safeguard children when carrying out their functions. This duty applies, among others, to local authorities, NHS organisations, the police, and governors or directors of young offender institutions.¹³

The [Working Together to Safeguard Children](#) guidance sets out the arrangements that organisations subject to the section 11 duty should have in place. This includes (but is not limited to):

- Clear whistleblowing procedures and a culture that enables issues around safeguarding 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 protection responsibilities and the procedures to be followed if anyone has concerns about a child’s safety or welfare”.¹⁴

The guidance also summarises further safeguarding duties placed on individual organisations and agencies, including schools, through other statutes.¹⁵

The safeguarding partners

Three safeguarding partners – the local authority, Integrated Care Boards, and police forces – must make arrangements to work together, and with other “relevant agencies”, to safeguard and promote the welfare of children

¹² [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, p220.

¹³ HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), December 2023, pp106.

¹⁴ HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), December 2023, pp106-107.

¹⁵ HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), December 2023, pp109-130.

in their area.¹⁶ “Relevant agencies” is a term used for all bodies and groups within an area which play a role in coordinating the safeguarding of children.

The [Working Together to Safeguard Children guidance](#) explains 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 of new safeguarding risks, issues, emerging threats, and joined-up responses across relevant agencies.”¹⁷

¹⁶ [Children Act 2004](#), section 16E.

¹⁷ HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), December 2023, p24.

2 A mandatory duty to report suspected abuse and neglect

As set out above, in England there is currently no general statutory requirement to report known or suspected child abuse or neglect.

There have been calls, particularly following high profile child abuse cases, for a mandatory reporting duty to be introduced for specific groups, such as social workers and teachers.¹⁸ Proponents of mandatory reporting argue that it would offer greater protection to children – for example, by increasing the likelihood of at risk children being identified.¹⁹ However, others raise concerns, including that it could create a ‘needle in a haystack’ effect and result in a ‘tick-box’ approach.²⁰

2.1 Independent Inquiry into Child Sexual Abuse

The statutory Independent Inquiry into Child Sexual Abuse, covering England and Wales, was established by the then Home Secretary, Theresa May, in 2015.²¹ The [final report of the inquiry](#) was published in October 2022.²² Among other things, the report recommended the introduction of mandatory reporting of child sexual abuse for certain individuals in England and Wales.²³

The inquiry’s case for mandatory reporting

The inquiry’s final report said there was “a marked absence of a cohesive set of laws and procedures in England and in Wales that require individuals working with children to report child sexual abuse” and “children have suffered as a result”.²⁴

The inquiry had, the report said, “heard of many instances in which children who were being sexually abused made disclosures or presented information

¹⁸ 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.

¹⁹ For example, see [HC Deb 12 September 2013, c1234](#); [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, p222-224.

²⁰ HM Government, [Reporting and acting on child abuse and neglect: Summary of consultation responses and Government action](#), March 2018, pp5-6.

²¹ Further information on the establishment of the inquiry is provided in, Commons Library briefing CBP-7040, [The Independent Inquiry into Child Sexual Abuse and background](#), 11 August 2016.

²² [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022.

²³ [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, p225.

²⁴ [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, p220.

to someone within an institution, but no action was taken to inform the relevant authorities”.²⁵ It added that a “prominent reason that individuals and institutions failed to report child sexual abuse to statutory authorities was a desire to protect an individual or institution from reputational damage”.²⁶

The report noted the Government’s response to its 2016 consultation that the case for mandatory reporting has not currently been made (see section 2.3 below). It said, however, that the evidence examined by the inquiry had led it to reach “different conclusions on some of the government’s key concerns about mandatory reporting”. It argued:

- The introduction of mandatory reporting in other jurisdictions has led to an increase in the number of referrals made and in the number of children subsequently identified as being in need of protection from sexual abuse.
- Research indicates the number of children identified as in need of protection from sexual abuse is higher in jurisdictions where mandatory reporting exists.
- The inquiry “repeatedly found that allegations and indicators of child sexual abuse were under-reported by adults who ought to have reported them”.
- Mandatory reporting laws have the capacity to significantly improve statutory services’ ability to target help and support to child victims of sexual abuse.²⁷

The report noted concerns that a requirement to make a formal report of child abuse could lead to a loss of privacy or confidentiality that a child may request when making a disclosure. For example, children could be discouraged from disclosing abuse for fear of the potential consequences for them, their family and potentially their abuser.²⁸ The countervailing consideration, the report noted, is “the significant public interest in reporting, investigating and prosecuting perpetrators of child sexual abuse, and protecting other children from harm”.

The report emphasised the need for a delicate balance:

In the delicate balance between the need to provide an individual child with confidential advice and support (whether medical, psychological, legal or social) and ensuring child sexual abuse is prevented, it is essential to recognise that there are some circumstances where privacy ought to be protected and some where prevention is paramount.²⁹

²⁵ [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, p216.

²⁶ [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, p217.

²⁷ [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, p222-224.

²⁸ [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, p224.

²⁹ [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, pp224-225.

The report gave the example of mandatory reporting laws in other jurisdictions providing exemptions where the child is in a sexual relationship with a person who is near in age to them and where the relationship lacks features of exploitation or coercion. The inquiry suggested such an exemption should exist in its recommended scheme for England and Wales (see following section).³⁰

Recommendation for mandatory reporting

The inquiry recommended legislation should be introduced in England and Wales (by the UK Government and the Welsh Government respectively) placing certain individuals – ‘mandated reporters’ – under a statutory duty to report child sexual abuse where they:

- receive a disclosure of child sexual abuse from a child or perpetrator; or
- witness a child being sexually abused; or
- observe recognised indicators of child sexual abuse, which should be set out in detailed guidance.

‘Mandated reporters’ would comprise:

- Any person working in [regulated activity in relation to children](#) (under the Safeguarding and Vulnerable Groups Act 2006)
- Any person working in a position of trust (as defined by the Sexual Offences Act 2003); and
- Police officers.

Reports should be made to either local authority children’s social care or the police as soon as practicable.

The report recommended it should be a criminal offence for mandated reporters to not report where they are in receipt of a disclosure of child sexual abuse from a child or perpetrator, or witness a child being sexually abused.

A mandated reporter should, the report said, report any act that would amount to an offence under the Sexual Offences Act 2003 where the alleged victim is aged under 18. It recommended, however, that an exception to the mandatory reporting requirement should apply in the context of consensual, non-abusive relationships between young people aged between 13 and 16.³¹

Further details on what should be reported, who should be required to report, to whom reports should be made, and sanctions for failure to report are provided on pages 226 to 231 of the report.

³⁰ [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, pp224-225.

³¹ [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, pp224-226.

Initial response

In a [written ministerial statement](#) following the report's publication, the Government said it would "take time to fully review the inquiry's findings and recommendations" and would "provide a comprehensive response in line with the inquiry's deadline [within six months]".³²

In [response to an oral statement on 24 October 2022](#), the Shadow Home Secretary, Yvette Cooper, said Labour had been calling for a mandatory duty to report child sexual abuse "since 2014" and she urged the Home Secretary "to announce that he will support it straight away, and send a strong signal to those across the sector".³³

2.2 Introduction of mandatory reporting duty

On 2 April 2023, the UK Government [committed to introduce a mandatory reporting duty, subject to consultation, for those working or volunteering with children to report child sexual abuse](#). The Government said it would publish a call for evidence, which would "be the start of extensive consultation to ensure everyone's views are represented ahead of implementing the new duty".³⁴

Call for evidence

The Government published its [call for evidence on mandatory reporting of child sexual abuse](#) on 22 May 2023.³⁵

The call for evidence said the Government agreed with the Independent Inquiry into Child Sexual Abuse that "the issue of organisations and individuals in positions of responsibility and trust failing to report must now be acted on". The Government was, it added, committed to "consult on a measured and phased approach, which is sensitive to wider impact and burdens."

The Government said it needed to consider a number of specific issues, including whether the duty should remain targeted on child sexual abuse or should cover other forms of abuse.

The call for evidence sought views on several aspects, including:

- Who the duty should apply to, including whether it should apply at an individual or organisational level, or both.

³² [HC Deb 20 October 2022, c32WS](#).

³³ [HC Deb 24 October 2022, c49](#).

³⁴ Home Office, [New measures to tackle child sexual abuse](#), 3 April 2023.

³⁵ Home Office, [Mandatory reporting of child sexual abuse](#), 22 May 2022.

- Whether the duty should apply to known or suspected incidents.
- What the consequences of failing to report should be. The call for evidence notes that “the introduction of a bespoke criminal offence may not be proportionate...if existing offences could already be applied to breaches of the duty.”
- What exemptions should apply to the reporting duty.
- What protections will be in place for mandatory reporters.
- How the duty would interact with wider reform programmes, including the [Stable Homes, Built on Love implementation strategy for children’s social care](#). Further information on the strategy is provided in the [Library briefing on children’s social care reform](#).³⁶

The call for evidence closed on 14 August 2023 and the Government received over a thousand responses.³⁷

Government consultation

On 2 November 2023 the Home Office published a [consultation setting out proposals for creating a mandatory reporting duty in England](#).³⁸ The consultation closes on 30 November 2023.

Responses to call for evidence

The consultation said responses to the call for evidence showed several areas of broad agreement with the recommendations of the Independent Inquiry into Child Sexual Abuse, including who the duty should apply to. Many also noted the potential benefits of a new duty, including improving awareness of child sexual abuse and reducing the likelihood of institutional ‘cover-ups’.

In other areas, responses were more mixed, including on whether breaching the duty should be a criminal offence. Opinion was also divided on whether the duty should apply where somebody observes ‘recognised indicators’ of sexual abuse, or only when they are told of abuse or witness it themselves.

Some also raised concerns about the potential negative impacts of a new duty, including the risk that it could overburden public services and reduce the amount of ‘safe spaces’ available to children who may wish to discuss sexual abuse in confidence.

Proposed mandatory reporting duty

Following on from the call for evidence, the Government explained the consultation was being launched to “set out proposals for delivering a

³⁶ Commons Library briefing CBP-9818, [Government proposals for children’s social care reform](#).

³⁷ Home Office, [Mandatory reporting of child sexual abuse](#), 22 May 2022; Home Office, [Mandatory reporting of child sexual abuse consultation](#), 2 November 2023.

³⁸ Home Office, [Child sexual abuse: mandatory reporting](#), 2 November 2023.

mandatory reporting duty and test a small but significant set of undecided policy questions.” It added that the Government was particularly seeking views on:

- how the government should define who is subject to the duty
- what protections should be in place for reporters
- the limited circumstances in which the reporting duty may not apply
- what sanctions should apply in respect of the duty

Under the Government’s proposals, the mandatory reporting duty would apply to any person undertaking regulated activity in relation to children (under the Safeguarding and Vulnerable Groups Act 2006, as amended) and any person in a role considered relevant to the duty. The consultation said a list of these additional roles would be set out.

Individuals would be required to make a report if, during the course of regulated activity or one of the specified roles, they received a disclosure of sexual abuse from a child or perpetrator, or witnessed a child being sexually abused. A report would not be required if those involved were between 13 and 16 years old, the relationship was consensual and there was no risk of harm. Reports would be made to either children’s services or the police.

The consultation noted that the Independent Inquiry had recommended the duty should also apply where a person witnesses signs that indicate abuse may be taking place. It said the Government had not included this in its proposal in acknowledgement of “strong feedback...that recognising child sexual abuse is likely to be difficult for those without formal training or who see children infrequently.”

If a person failed to make a report where required to do so they would be subject to referral to the Disclosure and Barring Service for barring consideration. Regulated professionals subject to the duty (for example, teachers) would also be subject to professional sanctions.

The consultation noted the Independent Inquiry had recommended a criminal sanction should apply. It said the Government was “testing the view that non-criminal sanctions might provide more proportionate penalties which take account of the different levels of responsibility and experience applicable to the wide range of people who undertake regulated activities in relation to children, including volunteers.”

Anyone who obstructed or delayed a mandated reporter from making a report under the duty, for example through destroying evidence or applying pressure, would be guilty of a criminal offence.

The duty would also set out that individuals were protected from any repercussions by their employer or wider organisation as a result of making a report in good faith.³⁹

The Government published a [consultation impact assessment alongside the consultation](#) (PDF). This provided more information on the rationale and anticipated benefits of the proposals and the estimated monetary costs of implementation.⁴⁰

Amendments to Criminal Justice Bill

In February 2024, the Government [confirmed that the mandatory reporting duty would be introduced](#) as amendments at report stage of the Criminal Justice Bill in the House of Commons. It additionally confirmed that:

- There will be a legal requirement for anyone in regulated activity relating to children in England to report if they know a child is being sexually abused.
- Those who fail to report abuse they are aware of face being barred from working with young people.
- Anybody who actively protects child sexual abusers – by intentionally blocking others from reporting or covering up the crime – could be imprisoned for seven years.⁴¹

The Criminal Justice Bill finished its Commons committee stage on 30 January 2024. A date for its Commons report stage has not yet been set and the Government has not, at the time of writing, tabled its amendments relating to the mandatory reporting duty.⁴²

2.3

Government's 2016 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

³⁹ Home Office, [Child sexual abuse: mandatory reporting](#), 2 November 2023.

⁴⁰ Home Office, [Consultation impact assessment: mandatory reporting duty for child sexual abuse](#) (PDF), November 2023.

⁴¹ Home Office, [Tougher laws to protect children from sexual abuse](#), 21 February 2024; [HCWS176 \[Independent Inquiry into Child Sexual Abuse: Update\]](#), 10 January 2024.

⁴² UK Parliament, [Criminal Justice Bill](#).

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 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.⁴³

Government response

In its [response to the consultation](#), published in March 2018, the Government reported 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.⁴⁴

The Government said it had decided against introducing either of the proposed reforms:

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.⁴⁵

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.

⁴³ HM Government, [Reporting and acting on child abuse and neglect: Government consultation](#), July 2016, pp12-21.

⁴⁴ HM Government, [Reporting and acting on child abuse and neglect: Summary of consultation responses and Government action](#), March 2018, p3.

⁴⁵ HM Government, [Reporting and acting on child abuse and neglect: Summary of consultation responses and Government action](#), March 2018, p5.

- 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 introduced “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”.⁴⁶

The response concluded that the evidence received through the consultation had “not demonstrated conclusively that the introduction of a mandatory reporting duty or a duty to act improves outcomes for children”. It added that this must be the “guiding consideration when considering such a major reform of such a vital service.”⁴⁷

It added that the evidence suggested reporting is generally not a key issue in cases where a child is failed:

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.⁴⁸

⁴⁶ HM Government, [Reporting and acting on child abuse and neglect: Summary of consultation responses and Government action](#), March 2018, pp5-6.

⁴⁷ HM Government, [Reporting and acting on child abuse and neglect: Summary of consultation responses and Government action](#), March 2018, p6.

⁴⁸ HM Government, [Reporting and acting on child abuse and neglect: Summary of consultation responses and Government action](#), March 2018, p6.

3 Mandatory reporting in other countries

3.1 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” who has needs for care and support is at risk of abuse, neglect or other kinds of harm.⁴⁹

The duty came into effect on 6 April 2016. The duty applies to local authorities, the police, providers of probation services, local health boards, NHS trusts and youth offending teams (“relevant partners” of the local authority).⁵⁰ There are no criminal sanctions for individuals who fail to report a child at risk. Any failure of a professional to report concerns is dealt with through internal disciplinary processes and referral to professional regulators.⁵¹

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).⁵²

Independent Inquiry into Child Sexual Abuse

In its final report, published in October 2022, the Independent Inquiry into Child Sexual Abuse said it was informed that by November 2020 “the introduction of the referral-reporting duty in Wales had not led to a ‘substantive change in practice’”.⁵³ It added that, although the legal requirements to report abuse differ between England and Wales, “neither system is an adequate model for ensuring that reports of child sexual abuse are made to the agencies that should receive them.”⁵⁴

As set out in section 2 above, the inquiry recommended legislation should be introduced by the Welsh Government to create a mandatory reporting duty.⁵⁵

⁴⁹ [Social Services and Well-being \(Wales\) Act 2014](#), section 130.

⁵⁰ [Social Services and Well-being \(Wales\) Act 2014](#), sections 130 and 162.

⁵¹ [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, pp218-219.

⁵² Welsh Government, [Social Services and Well-being \(Wales\) Act 2014: Working Together to Safeguard People Volume 1 – Introduction and Overview](#), November 2019, pp22-23.

⁵³ [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, pp218-219.

⁵⁴ [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, p217.

⁵⁵ [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, pp224-226.

Welsh Government response

The Welsh Government published its [response to the independent inquiry on 20 April 2023](#).⁵⁶

The response set out the existing duties in Wales to report children at risk of abuse and recognised that these differed from the duty recommended by the inquiry. Differences include that the duties in Wales are organisation-based whereas the inquiry recommended a duty be placed on individuals. The Welsh duty also does not have criminal sanctions attached.

The Welsh Government accepted the inquiry's recommendation "in principle" and said it intended to "strengthen and improve compliance with our regulatory frameworks across childcare, education, health and social care". This would, it added, reinforce key elements of safeguarding procedures, including the reporting of children at risk.

The response said the Welsh Government would also "explore the implications of placing duties to report children and adults at risk, on individuals".⁵⁷

3.2 Other countries

Mandatory reporting laws exist in several countries internationally, including the majority of countries in Europe and some parts of the US, Canada and Australia.⁵⁸

The final report of the Independent Inquiry into Child Sexual Abuse noted that, although the detail of mandatory reporting laws vary, there are a number of common features:

- **Who is covered by the duty:** most mandatory reporting laws specify a list of mandated reporters. These are generally those who come into contact with children in the course of their work or have managerial responsibility for others who work with children.⁵⁹ A briefing note published by the Inquiry in 2018 noted that in a minority of jurisdictions, including Australia's Northern Territory, mandatory reporting applies to all adult citizens.⁶⁰
- **What must be reported:** mandatory reporting laws vary in what they require people to report. It is common for them to cover various forms of

⁵⁶ Welsh Government, [Welsh Government response to the independent inquiry into child sexual abuse](#), 20 April 2023.

⁵⁷ Welsh Government, [Welsh Government response to the independent inquiry into child sexual abuse](#), 20 April 2023.

⁵⁸ [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, p221.

⁵⁹ [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, p221.

⁶⁰ Independent Inquiry Child Sexual Abuse, [Seminar briefing note: Mandatory reporting: Existing obligations to report child sexual abuse](#), 2018, p2.

child abuse. There is also variation in the level of awareness of the alleged abuse mandated reporters need to have before they are required to report.⁶¹

- **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.⁶²
- **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 (for example, France). Some jurisdictions, however, do not impose a sanction (for example, New South Wales, Australia).⁶³

Annex D of the Government’s 2016 consultation on reporting and acting on child abuse and neglect (see section 2.3 above) similarly set out the variations between mandatory reporting laws internationally. A table at the end of the annex then categorised international models of mandatory reporting according to these criteria.⁶⁴

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 jurisdiction’s overall approach to child protection”.⁶⁵

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”.⁶⁶

⁶¹ [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, p221.

⁶² [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, p221.

⁶³ [The Report of the Independent Inquiry into Child Sexual Abuse](#), HC 720, October 2022, p221; Independent Inquiry Child Sexual Abuse, [Seminar briefing note: Mandatory reporting: Existing obligations to report child sexual abuse](#), 2018, p6.

⁶⁴ HM Government, [Reporting and acting on child abuse and neglect: Government consultation: supporting annexes \(PDF\)](#), pp18-20 & 30-35.

⁶⁵ HM Government, [Reporting and acting on child abuse and neglect: Government consultation: supporting annexes \(PDF\)](#), p19.

⁶⁶ HM Government, [Reporting and acting on child abuse and neglect: Government consultation: supporting annexes \(PDF\)](#), p20.

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