

NSPCC response to the consultation on reporting and acting on child abuse and neglect

Every child should have a childhood free from abuse. To achieve this we must improve reporting and action on child abuse and neglect. Too many cases have illustrated what can happen if people do not report concerns or action is not taken. This is not good enough and survivors of abuse deserve better. We must take action to stop cover-ups where people have been unable or unwilling to speak out and those in charge have chosen to turn a blind eye or worse.

To be effective, any reporting system must:

- promote the best interests of children;
- be part of a strong end to end system where there is recognition of concerns, clear reporting processes, appropriate assessment, and effective intervention; and
- be supported by robust intervention backed up by appropriate sanctions in cases where there is clear failure.

We have previously set out our support for restricted mandatory reporting specifically in “closed” institutions¹ where there are greater risks that the interests of the institution might be placed above the safety of a child. But we have concerns about the risk of counter-productive consequences from a full form of mandatory reporting. In particular, we have concerns that the application of full mandatory reporting would not always be in the best interests of the child and would not come with resources sufficient to be confident that effective help could be given where and when it is needed.

We are attracted, therefore, by the alternative proposal in the consultation paper for a Duty to Act. We think that this may make it more likely that children are given the support they need according to their circumstances and it leaves professionals with some discretion to decide and record what action is appropriate (which could include reporting a case to the appropriate authorities). We would welcome the opportunity to work with the government on the potential development of a Duty to Act as there are significant details that need more working through to ensure effective design and implementation.

Below, we set out what we consider to be the characteristics of a good reporting system, and then respond to the Government’s mandatory reporting, duty to act and enforcement proposals in light of this.

1. A reporting system that promotes the best interests of children

The NSPCC is clear that any system for reporting abuse or neglect should always be focused on promoting the best outcomes for children. This requires a system where:

- The best interests of children are the primary consideration at every stage of the process.

¹ <https://www.nspcc.org.uk/globalassets/documents/information-service/policy-briefing-strengthening-duties-professionals-report-child-abuse>

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- Children are confident that their wishes will be listened to, feel that they are able to ask for help, and feel able to trust practitioners with disclosures of abuse or neglect.
- Children are helped to know what abuse is, that it is unacceptable, and never their fault.
- Families feel able to ask for help without fear that this will lead to a stigmatising intervention from statutory services.
- Adults - including professionals working with children - are able to recognise abuse and to respond appropriately.
- Adults - including professionals working with children - feel free and confident to share information when this is in the best interests of the child.
- There is sufficient flexibility to support children in a way that helps them the most. Each case is unique, and the interventions, support systems, or services required to help families will depend on a range of factors.
- Early help is available to offer support and advice when problems first arise.

The interests of children are best served when the child is well informed and enabled to disclose on their terms and at their own pace. Practitioners and organisations must be empowered to facilitate disclosures that they can be confident will be acted upon speedily and in the best interests of the child. This means they need the flexibility to use their professional judgment within a clear set of expectations about how, when, where, and why a report should be made and what the likely consequences could be for the child in question.

The relationship that children might hold with a teacher, teaching assistant, doctor, or other trusted adult is an important part of helping children to feel safe, thereby enabling disclosure. If that individual was bound to report immediately on any signal of uncertainty, the quality of this relationship could be hampered.

Disclosing abuse can be a slow process for children. Research by the NSPCC² on disclosing abuse has highlighted that children will often test the responses of adults around them by making a series of partial disclosures, which build over time into a full disclosure. For example, a child may share a small amount of information which could be a concern but if this triggers a response that is overwhelming for the child, it could result in them refusing to disclose any further information. In such cases the practitioner will want to build trust with the child in order to make them feel safe and able to share their experience.

There are, of course some situations that require an immediate report - for example where a child discloses an immediate threat to their safety, or where a practitioner has reason to believe a child is in immediate danger. A police officer visiting a home on a domestic abuse call may find children at immediate risk of harm and may need to remove the children to protect them.

² P Miller & D Allnock, 2014, *No-one noticed, no-one heard, a study of disclosures of childhood abuse*, NSPCC.

Childline

NSPCC has made an explicit decision to provide a confidential space to support children. Childline offers a confidential space to children and young people to discuss their experiences or concerns. We could use technology to trace almost all contacts but we don't use this unless we are concerned about a child's immediate safety. **We provide this confidential space because children tell us this is important to them and, in many cases, without those assurances they might not reach out for our help.**

Many children worry about disclosing abuse because they are afraid that it could worsen the situation, lead to a break-up of the family, or that they could be taken away from the family. Last year 33,000 children contacted Childline and told us something that they had not told anyone else before but we were able to offer a space where they felt comfortable to tell someone about their problems. One young boy told us:

"I told Childline about a horrible thing that happened to me. I had never told anyone else about what I had been through and it was very hard to tell Childline, but the counsellor made me feel safe and encouraged me to take my time. Being able to talk about it made me very proud but a little scared, but I am super thankful to Childline. You inspired me to do the right thing and get the right support, which has really helped me."

2. Mandatory Reporting

If the government chooses to implement a form of mandatory reporting rather than a duty to act, we believe that the focus ought to be where children face particular risk. Recent revelations about the abuse by people in a position of trust, powerful individuals and celebrities that occurred in closed institutions, such as boarding schools and hospitals, illustrate the terrible consequences when an organisation fails to listen to children or their staff, or do not have clear procedures in place to respond appropriately to concerns.

Judgment is at the heart of practitioner/child relationships if we are to foster trusting relationships in which abuse is spotted and children disclose. However, in "closed" institutions we are concerned that the isolation of children in these contexts can lead people to put the protection of an institution above the safety of a child, which is why we supported mandatory reporting in such contexts³.

Our main concerns about the reporting of abuse in closed institutions are that:

- Children living in closed institutions have a smaller support network of adults that they can disclose abuse to and this limited network also means that there is a greater power imbalance between children and adults in those institutions.
- The pressure on adults working within a closed institution to protect its reputation is higher and there may be greater pressures to suppress or ignore allegations an alternate system is therefore required to circumvent this loyalty.
- Individuals seeking to harm children may be drawn to institutions in which they have access to children with limited access to other adults.

³ <https://www.nspcc.org.uk/globalassets/documents/information-service/policy-briefing-strengthening-duties-professionals-report-child-abuse>

If such a proposal was adopted, work would be needed to ensure the definitions are right. We do acknowledge that a form of mandatory reporting specifically for closed institutions raises definitional difficulties. Any mandatory reporting system – in order to be an improvement on what exists now - requires very well organised delivery if all are to be confident that reports will be well made and trigger timely, meaningful and effective responses where needed and not cause a host of problems where they do not.

Our support for this limited form of mandatory reporting is based on our view that this would help children to speak out about abuse, as well as simplify the process for professionals working within closed institutions where risks are elevated.

However, the NSPCC considers that a mandatory system of reporting across the board would not achieve an effective reporting system as described above. We have accepted that mandatory reporting has its limitations and would not guarantee that reports to resource-starved statutory authorities would be followed up. For example, it is the likely that full mandatory reporting would lead to an increased number of reports (based on evaluations from those countries where there is a mandatory reporting system), which could lead to less robust triage and result in further increasing already high thresholds for services, unless they are organised and resourced far better than is currently the case.

3. Duty to Act

We are attracted, therefore, by the alternative proposal in the consultation paper for a duty to act. We think that this may make it more likely that children are given the support they need according to their circumstances and it leaves professionals with some discretion to decide what action is appropriate. The appropriate actions could include reporting a case to the appropriate authorities but they could also include a decision not to act or report at this stage based on the best interests of the child, and in such cases the decision could be recorded. The NSPCC considers a Duty to Act has the potential to support the development of a reporting system which is part of a strong end to end system that promotes the best interests of children. It could do this by supporting professional-led decision making on a case by case basis whilst also emphasising the need to ensure they proactively consider the best response, and by recognising that reporting alone doesn't keep children safe and action is required as demonstrated in recent cases of CSE in Rotherham and the death of Daniel Pelka.

We would, therefore, like to see the duty to act worked out in more detail and are ready to help the Government in fleshing it out. In doing so we are concerned that a decision to act should be taken always in the best interests of the child. The Government has set out an outline of an approach and more detailed thinking is needed. The following issues, and others, will need further working through:

- If a duty to act is not linked to a particular action or outcome, how would practitioners know when they had fulfilled their duty?
- Given that different organisations operate under different thresholds, whose thresholds would be used as a standard?
- If there were no services that a child or family could be referred to, how would a duty to act be discharged?

- What standard of evidence would professionals be required to provide in cases where a professional had failed in their duty to act?

4. Enforcement: robust methods of intervention if the system is failing

We have been, and remain, fully supportive of measures to address conscious cover up of abuse. This means making professional duties and their consequences more clear. An effective reporting system must be supported by robust intervention including sanctions on professionals in cases where there is clear failure.

We need to support and reinforce the need for employers and professional bodies to hold members and staff to account for their child protection duties and ensure that organisations and employers fulfill their responsibility to train, support, and pursue reports from their staff.

It is important that there are clear guidelines for practitioners working with children. Current guidelines should be reviewed and updated to ensure that there are clear processes in place, and that if practitioners fail in this regard, this could result in professional sanctions or a disciplinary procedure. Training should make the expectations that will guide decisions about their fitness to practice absolutely clear.

Depending on the nature of the failure, sanctions (which could range from a restriction of duties, training and supervision requirements, or capability assessments, to dismissal and potential referral to the Disclosure and Barring Service) should be considered. In extreme cases, where a practitioner's actions (or inaction) directly contributes to a child being harmed, then it may be appropriate to apply criminal sanctions (which currently apply to other areas of professional negligence).

Organisations play a pivotal role in creating an environment where children and staff feel supported reporting safeguarding concerns. When a serious safeguarding concern arises, or an investigation occurs, a reviewer may examine issues, such as whether the organisation had given the individual (or team) involved the right support. The training, support, management, and resourcing offered by an organisation would be interrogated, to consider whether the individual had the capacity to perform the duties expected of them. If it was found that an organisation had failed in any of the respects above, the organisation would be penalised for this failure.

The NSPCC considers that a duty to act, built around these expectations, could help to ensure that organisations, as well as individuals, are clear about the level of training, support, and help that professionals should receive from their employers.

In those instances where there is a deliberate attempt to cover-up concerns, or where an active decision was taken and it was understood that this would lead to the suppression of concerns, the NSPCC considers that it should be possible to hold organisations and individuals to account. We believe that a framework similar to willful neglect could be a useful way of structuring this approach. Where professionals cover up crimes against children by consciously failing to report known abuse of a child this should be an offence.

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This is a position that the NSPCC set out in 2014, and we believe such a backstop power will be important in ensuring those cases of deliberate cover up are dealt with properly⁴.

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⁴ <https://www.nspcc.org.uk/globalassets/documents/information-service/policy-briefing-strengthening-duties-professionals-report-child-abuse>