

Mandatory Reporting Call for Evidence Submission

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IICSA Changemakers
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IICSA Changemakers

IICSA
changemakers



Taking action. Creating change.
Preventing child sexual abuse.

Introduction and Executive summary

1.1 Introduction

The Changemakers group has come together as an informal coalition. They are a range of individuals, charities and survivor organisations that support those who have been subjected to child sexual abuse and those that work on the frontline and have experience of preventing and tackling child sexual abuse.

IICSA Changemakers are all committed to inspiring a national mission to prevent child sexual abuse and ensuring support is provided to victims and survivors.

Each organisation or individual member of the group may not necessarily agree with all the Independent Inquiry into Child Sexual Abuse's recommendations, but recognises the importance of working collectively to bring about change so the protection of children from sexual abuse and support for all victims and survivors is given a much greater priority in public life.

This submission includes research and evidence that supports areas of focus which members of the IICSA Changemaker group have highlighted as important for Government to consider during this call for evidence stage. Some organisations have supplied their specific views on some of the consultation questions posed in separate and individual responses.

1.2 Executive summary

Effective and timely reporting is a vital part of a well functioning child protection system. That said, mandatory reporting on its own is not a panacea for improving the prevention of, reported rates, considered response and care of victims and survivors of child sexual abuse.

The IICSA Changemakers, together, are keen to affirm that the recommendations detailed by the Independent Inquiry into Child Sexual Abuse were proposed as a connective suite and in order to tackle child sexual abuse more fully, further analysis of the whole is required, not implementation of the few.

Mandatory reporting was not offered as a standalone recommendation by IICSA. IICSA Changemakers believe that for any implementation of mandatory reporting to have a positive effect, a wider system change for child protection where both capacity and capability of that system needs to occur.

A successful introduction of any proposed mandatory reporting duty will require careful consideration in both design and delivery to improve the identification and response of child sexual abuse to protect children. IICSA Changemakers look forward to working with Government on their proposed model in the autumn after they have assessed and considered the results of this call for evidence.

If the aim of a mandatory reporting duty is to improve the protection and support offered to children and young people experiencing child sexual abuse, there needs to be a commitment to the following areas:

- Children and young people must not experience further harm by systems that are supposed to ensure their safety and well-being.
- Research exploring both the barriers children experience and the facilitators that help them to disclose.
- All organisations, institutions, agencies and individuals should respond to child sexual abuse in a trauma informed way through good quality training that has the safety of the child at its core.
- Whatever form of mandatory reporting that the government proposes' must not have the unintended consequence of silencing survivors through fear of authorities/repercussions.
- Children and young people must be heard, and both what they and adult survivors say needs to be listened and responded to.

- Any model of mandatory reporting must be introduced within the context of an improved multi agency system response where respective accountabilities are clear.

Submission

2 What needs to be in place

Any model of mandatory reporting must be preceded by a meaningful multi-agency response to child protection that ensures both capacity and capability in the system to safeguard children and young people.

Any duty will need to consider and be very clear on who it is intended to cover. As this position develops, IICSA Changemakers urge for a review of existing guidance that will need to be considered alongside any new duty.

A new duty on reporting should not replace the real and urgent need for a focus on prevention.

2.1 Focus on safeguarding

The recommendation currently states:

“The following persons should be designated ‘mandated reporters’:

- any person working in regulated activity in relation to children (under the Safeguarding and Vulnerable Groups Act 2006, as amended).
- any person working in a position of trust (as defined by the Sexual Offences Act 2003, as amended); and
- police officers.” (IICSA Final Recommendations Paper Prof Jay Oct 2022)

These three areas are already covered by separate policies to report abuse but are in balance with safeguarding principles. In England and in Wales, existing practice in accordance with statutory guidance is that child safeguarding

concerns should be reported to local authorities. If a child is in immediate danger, a report should be made to the police immediately.

Currently, there are a number of specific reporting duties on regulated professionals in England and Wales. These include:

1: The Working Together to Safeguard Children 2018 statutory guidance. This applies to professionals in England and 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.’ This remains in the 2023 draft guidance: “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

2: The Social Services and Well-being Wales Act 2014. This places a duty on certain public bodies in Wales 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.

Individual judgment and assessment of safeguarding risks are at the centre of practitioner and child relationships that foster a trusting environment in which abuse can be identified and children can disclose. However, in “closed” institutions which are not currently covered by national reporting policies, there is significant concern of unreported yet known abuse. This issue was rightfully identified by the Independent Inquiry into Child Sexual Abuse, who found that

¹ Working Together Guidance 2018 pg44 (this wording remains in the draft Working Together guidance that is currently out for consultation summer 2023)

the isolation of children within closed institutions can lead people to put the reputation of an institution before the safety of a child².

Disclosure or witnessing incidents as they happen are rarer than suspected incidents but do happen. Disclosures are often not linear, and children often make them on a piecemeal basis, as they build trust with a professional.

Preserving confidential spaces is important for those children and young people who do choose to verbally disclose and wish to have control of how they gain support. Therefore, the working arrangements detailed in the Government's Working Together to Safeguard Children guidance document remain important as the core touchstone guide for those who provide these safe environments so that they can continue to work to support children and young people. This is evident in the following case study supplied by Childline.

² The report of the Independent Inquiry into Child Sexual Abuse Oct 2022 Professor Alexis Jay OBE, Professor Sir Malcolm Evans KCMG OBE, Ivor Frank, Drusilla Sharpling CBE

CASE STUDY

Charlotte contacted Childline about them being sexually abused at home, they had previously told professionals about being abused at home and this did result in professionals being involved with the family which led to the parent reacting badly to Charlotte when she was alone, and the abuse got worse.

Charlotte did not want Childline to speak to anyone as was worried that the abuse would get worse, but the abuse was ongoing and it appeared that the parent was misleading professionals which led to Charlotte not being safeguarded.

Charlotte explored moving in with their other parent with Childline as a way to help keep themselves safe and this was able to happen whilst Childline was providing support to Charlotte. This also meant that Charlotte felt safer to disclose more to the professionals about the abuse and therefore helped them to put in adequate safeguards in place for them.

The next case study was provided by a member of the Victim and Survivor Consultative Panel (VSCP) who has both lived experience and professional expertise across sectors that support both children and adults. The example details the importance of both safe spaces for young people to share their experiences as well as a situation that should have been reported by an adult.

CASE STUDY

Rachel was sexually abused by her father, his friends and her brother. She was removed from the family home and placed into care- living in a children's home with 6 other girls aged 7-15. She attended a pupil referral unit after being excluded from three primary schools for challenging behaviour. Rachel was responding well to the additional support at school but still had significant issues with hygiene. One year after settling at the PRU, Rachel's behaviour rapidly grew worse, demonstrating violent tendencies towards objects and staff. This was raised with the care home which did not report the same behaviour.

The psychologists and highly trained staff at school with whom Rachel was slowly developing a trusting relationship also found their work damaged by this sudden change in behaviour as she appeared suspicious and mistrustful of them.

Rachel was arrested several times for antisocial behaviour and getting increasing sanctions at school and in the care home. On one occasion she was taken to a and e after getting into a fight. The hospital found evidence of sexual assault and rape. Rachel had been experiencing sexual abuse by a staff member at her care home for 8 months. During one such episode a team member had walked in and witnessed the abuse but took no action, then changed their shifts so that they had minimal contact with Rachel. Rachel described this action as confirming in her mind the abuse was her fault.

2.2 Regulation

IICSA Changemaker group member the British Association for Counselling and Psychotherapy (BACP) highlight that if mandatory reporting is to be implemented as described, then the element of 'regulated activity' will require review due to the difference between private practice and non-private. Counsellors operating in private practice, who do not fall under the remit of 'regulated activity', will not be covered by this guidance. All qualified

counsellors and psychotherapists who are also members of a recognised professional body are accredited via a register held by the Professional Standards Authority (PSA) regardless of whether they are individuals (i.e., sole traders working in private practice) or whether they work for a service or organisation (where there will be policies and procedures in place for reporting). Depending on which services are accessed, some counsellors will be bound to report whilst others will not.

It should be noted, counsellors and psychotherapists are not statutorily regulated, the Professional Standards Authority (PSA) accredit professional membership counselling bodies (i.e BACP, UKCP, NCPS) via holding a register of qualified counselling practitioners (in what would otherwise be considered as an unregulated healthcare occupation). The accredited register oversees organisations (i.e., BACP) via registering suitably qualified practitioners in order to keep the public safe from harm and this would include safeguarding focuses on children. Registered counsellors and psychotherapists could therefore be inadvertently added to the mandatory reporting list as they are key providers of therapeutic interventions for victims and survivors of child sexual abuse. However, those in private practice would not be viewed as offering a regulated activity as the definition currently stands. We urge that the definition of 'regulated activity' is reviewed so as not to cause confusion and unintended consequences to the counselling profession occur.

The Centre of expertise on child sexual abuse (child sexual abuse 2018) hosted by Barnardo's highlights in one resource that "much available information about the experience of child sexual abuse in institutional contexts draws on the testimony of survivors of non-recent abuse; there has been relatively little research into contemporary abuse in such settings". Whilst this still stands for much research and evidence, one IICSA study examining 43 recent case files of people referred to the Disclosure and Barring Service (DBS) was able to look at more recent experiences by young people. This study explored case files from institutions where people worked or volunteered, owing to concerns about their behaviour. It found that grooming and abuse had frequently taken place online and via social media – and that informal social relationships between adults and

children, and ‘perceived romantic relationships’ between adults and young people in their care, were often normalised within the institutions.”³

2.3 Identification

IICSA Changemaker group member the NSPCC said: “it is not the responsibility of children and young people to come forward if they are being abused - it is for the adults around them, including the adults in the institutions or organisations working with them to identify child sexual abuse and take action to prevent and stop it. However, particularly given the low rates of disclosure by children and young people, it is important that any reporting system is designed to maximise disclosures and ensure children and young people are encouraged to reach out for help, feel safe and confident that they will be protected and supported.

If the aim of a mandatory reporting duty is to improve the protection and support offered to children and young people experiencing child sexual abuse, it is vital to understand both the barriers they currently experience and the motivators and facilitators that help them to disclose and then to design systems with that evidence in mind. To support that learning, NSPCC commissioned the University of Bedfordshire to research the existing evidence base about children and young people’s views and experiences of disclosing child sexual abuse (CSA), to understand their perspectives and consider the implications of this for any proposed mandatory reporting duty (Allnock and Kiff, University of Bedfordshire (NSPCC), forthcoming September 2023).

That forthcoming evidence review notes that “the evidence from children and young people on the barriers to disclosure of child sexual abuse highlights the multiple, complex and intersecting challenges that they face in gaining the courage and motivation to seek help, it underlines importance of ensuring any

³ Key messages from research on child sexual abuse in institutional contexts, Di McNeish and Sara Scott, DMSS Research, March 2023

new duty does not re-enforce those barriers and so risk driving the rates of disclosure down further. Instead, it is crucial that those factors identified in the research that motivate and facilitate disclosures are embedded in strategies designed to increase identification and reporting of child sexual abuse”.

The researchers recommend that “those designated as mandatory reporters must be equipped to not only identify signs and indicators of child sexual abuse but how to develop the rapport, relationships and trust that are so critical for children and young people to be able to tell someone what has happened. Understanding how to promote opportunities and connection is vital for providing children with safe space to disclose”.⁴

IICSA Changemaker group member The Royal College of Pediatrics and Child Health (RCPCH) notes that Under Article 19 of the United Nations Convention the Rights of the Child (UNCRC), all children have a right to protection from violence, abuse, neglect. Additionally, UNCRC States – including the United Kingdom – that signatories to the treaty are required by Article 3 to act in the best interests of children. This right must be considered when we look at identification of child sexual abuse.

3: Consequences, risks and inequalities

3.1 Concealment

In the 2016 consultation on mandatory reporting, many organisations highlighted the importance of looking at the current legislative framework to assess whether it is able to deal appropriately with concerns about concealment of child abuse and neglect. This review of the system has not occurred with many IICSA Changemaker organisations still urging review of this specific area in regard to concealment.

4 (Allnock and Kiff, University of Bedfordshire (NSPCC), forthcoming September 2023).

3.2 Training

IICSA Changemaker group member British Association for Counselling and Psychotherapy (BACP) explain that in most cases, reporting is an ethical issue that, as well as having a duty of care, professionals want to get victims/survivors the best help possible. It can be retraumatising going through the criminal justice system though and may leave individuals feeling they could have dealt with a disclosure differently. Adequate training, supervision and support needs to be in place for anyone with reporting responsibility.

Appropriate training that considers the fear that still exists for practitioners around the sharing of information because of General Data Protection Regulation (GDPR) also needs to be considered.

3.3 Resourcing

There needs to be significant, ongoing resource provided for anyone working in an environment with children who should be given training in trauma-informed practice and how to appropriately respond to a disclosure or signs of abuse.

There is evidence that following the introduction of mandatory reporting, social care systems with limited resources, at least in the short term, find it difficult to respond appropriately to the increase in reporting. This is described in a 2018 article that discusses the spectrum of mandatory reporting legislation across Australian states, and includes criticisms of mandatory reporting policy while exploring the pros and cons presented in the literature⁵.

When mandatory reporting is first introduced, it is often accompanied by a spike in the number of unsubstantiated reports of abuse. Professionals often adopt a “play it safe” attitude, reporting minor incidents or suspicions because they feel the pressure of the criminal sanction if they do not report. A 2002 analysis of the experience of different Australian territories shows a notable difference between the number of unsubstantiated reports between different territories based on whether or not they had a mandatory reporting duty in place. In New South Wales, which had mandatory reporting, 45.2% of reports were unsubstantiated, whereas in Western Australia, which did not have mandatory reporting, only 25.1% of reports were unsubstantiated. The increase in unsubstantiated reports can take up valuable resources – in New South

Wales, it was estimated that 75% of the budget was being used to investigate unsubstantiated cases. This could take money away from preventative work, and from services to support child victims of abuse. The triaging and capacity to undertake an assessment of a report is therefore key.⁶

A freedom of information request by Barnardo's in 2023 found that 68% of local authorities had not commissioned any services for child sexual exploitation, child criminal exploitation, or combined services in the past 12 months.⁷

In balance to this, concerns about the effectiveness of mandatory reporting within the wider child protection system need to be separated from the philosophy that underpins it, the development of appropriate skills for reporting among people who are mandated notifiers and creating a more effective child protection system. Mandatory reporting came into effect in Ireland in December 2017 and has contributed to a rise in the number of referrals linked to suspected abuse to the Child and Family Agency. Learning from the experiences of others will be key as any duty is considered.

The funding and commissioning landscape and lack of resource for sexual violence services is a major systemic barrier. Appropriate support at this first step of identification has a positive knock-on effect for both the individual and the rest of the case in terms of the justice system. Currently, across the UK, there are skyrocketing attrition rates amongst survivors who go on to pursue criminal justice. Child sexual abuse offences recorded in 2019/20 and reached an outcome by October 2020, saw charges laid in relation to just 10% of cases.⁸

⁵ MacCormick NA. To Mandate or Not to Mandate: A Review of Mandatory Reporting of Suspected Child Abuse and Neglect. J Law Med. 2018 Dec

⁶ Mandatory reporting of child abuse and neglect: does it really make a difference? Ainsworth 2002

⁷ Invisible Children: Understanding the risk of the cost-of-living crisis and school holidays on child sexual and criminal exploitation, Barnardo's, Edwards, July 2023

⁸ The scale and nature of child sexual abuse: Review of evidence Kairika Karsna and Professor Liz Kelly June 2021 Page 58

3.4 Risks

The July 19th IICSA Changemaker Focus Group representation was formed by 72 colleagues, comprising of 10 lived experience experts, 15 changemaker organisations and 31 non changemaker organisations.

The organisations covered Local Authorities, councils, schools, health, religious organisations and safe guarders, police, Office of the Police and Crime Commissioners, survivor support organisations, charities, academics, school governors, volunteer groups and philanthropic organisations.

From this session, the risks surrounding mandatory reporting were a key area of concern across sectors. During this conversation, health colleagues shared that we need to consider existing obligations in place on health professionals- such as medical professional duties as outlined under the General Medical Council (GMC). We need to consider whether additional mandatory reporting sanctions are effective for those already with professional obligations in place.

IICSA Changemaker group member Rape Crisis for England and Wales explain that to avoid mandatory reporting having the unintended consequence of silencing survivors through fear of the authorities/repercussions, due regard must be given to the basic forms of support (listening to a child, facilitating and fostering their sense of choice, in a situation where bodily autonomy has been disregarded through sexual violence and abuse). This can be lost if fear replaces those opportunities.

Reporting is not the same as effective safeguarding but can form part of it. Safeguarding may often include reporting, but not necessarily. There has to be allowances for professionals to take the most protective approach for the specific situation. In situations where there could be a risk to the child's life, or if they are at risk of further abuse if a report is made (retaliation and retribution). The effects can be devastating of which Rape Crisis for England and Wales offer examples in their own submission. A report has to be done because it is protective, not for the purposes of protecting the professional.

Interaction with existing wider reform programmes such as Stable Homes Built on Love and Working Together will be essential in order to reduce the risk of confusion across the system.

3.5 Inequalities

The first step in any reporting system needs to be appropriate access to support. If a child discloses, or an adult suspects that a child is being abused, the child must be given immediate access to age-appropriate, specific and sufficient support. This is routinely not available for children and especially those from seldom heard communities such as those that experience inequality which can be due to a range of factors such as race, ethnicity, disability, sexual orientation or migrant status. The Centre of expertise for child sexual abuse found four key areas for cultural barriers, i.e., lack of understanding and awareness of concepts such as child sexual abuse, pressure to conform to gendered roles, fear of being disbelieved or ignored and pressure within families and communities to maintain honor and prevent shame. They also found three external issues as highly prevalent, these were poverty and insecure immigration status, lack of awareness of support services and inability to access them as well as a lack of trust in agencies and services.⁹

The environment in which sexual abuse occurs also needs to be considered. In April 2015, it became mandatory for all Police Forces to return information on the number of crimes flagged as being committed online (in full or in part). In 2019/20 there were 11,107 child sexual offences that were flagged as 'online crime'. This was 19% of all child sexual offences.¹⁰ There is a risk that mandatory reporting can be misinterpreted as only in person contact abuse and opportunities of capturing this ever-increasing abuse may be reduced.

Organisations that work as part of seldom heard communities explained at the July 19th IICSA Changemakers Focus group that “often children in heavily patriarchal or marginalised communities who disclose are ostracised from their communities and pressured to recant their statements.” There needs to be

⁹ Improving responses to the sexual abuse of Black, Asian and minority ethnic children Nasreen Ali, Jabeer Butt and Melanie Phillips March 2021.

¹⁰ NSPCC Statistics briefing: child sexual abuse 2021

support available from the moment disclosure of abuse or abuse is identified in order to lower overall attrition rates across the court system. They also highlighted that this view extends to services such as Sexual Assault Referral Centres (SARCs). IICSA commissioned a specific report in the area of sexual abuse in minoritised communities and a key finding was that cultural stereotypes and racism can lead to failures on the part of institutions and professionals to identify and respond appropriately to child sexual abuse. They can also make it more difficult for individuals in ethnic minority communities to disclose and speak up about child sexual abuse¹¹

They also found that the adultification of black children and further prejudices that exist prevent people from identifying and reporting abuse. It is therefore important that potential conscious biases are built into training.

The needs of young people who are neuro divergent need to be considered. Research undertaken by IICSA Changemaker group members Barnardo's and The Children's Society in 2015 highlighted specific factors that increased the vulnerability of children with learning disabilities to sexual exploitation. These included overprotection, disempowerment and social isolation, and a lack of accessible sex and relationships education and information. There is also a reported lack of knowledge, understanding, awareness and training, specifically about the sexual exploitation of children with learning disabilities.¹²

The IICSA Changemaker group member NAPAC summarised this area at the 19th of July Focus Group by explaining that "The current model of mandatory reporting assumes the competency of the adult to interpret a disclosure or the warning signs of abuse. The significant concern here is how can this be the case without formal training in this area? For example, children with a disability

11 People don't talk about it, Child sexual abuse in ethnic minority communities June 2020 Authored by: Holly Rodger, Rachel Hurcombe, Dr Theresa Redmond and Rachel George, IICSA Research Team with contributions from: Jabeer Butt, Tracey Bignall, Melanie Phillips, Bernadette Rhoden and Chalice Richardson Race Equality Foundation

12 Unprotected, overprotected: meeting the needs of young people with learning disabilities who experience, or are at risk of, sexual exploitation, Barnardo's, 2015

are four times more likely to experience abuse but may not have the cognitive ability to disclose verbally.”¹³

The IICSA Changemaker group member the Methodist Church in Britain stated that it would be wise to consider the research on sexual abuse which indicates where the disparities already are between different groups so evidenced points already made are not missed.

Conclusion

This submission comes from a diverse group of organisations and individuals who all have children’s and adult survivor’s welfare as their focus. In order to support the Government to implement effective strategies to achieve the objective of improving identification of and the response to child sexual abuse we have shared evidence and case studies that demonstrate that designing and implementing a duty to report is not simplistic. However, there is across our many sectors a shared recognition that considerable investment in the child protection and safeguarding system prior to any implementation of such a duty would be necessary for improvements to be achieved.

We are also concerned that further consideration and development of any such duty must be undertaken with and alongside children, young people and adult survivors. It is essential that any such duty is designed with the needs of children today in mind.

We urge the Government to consider the bespoke needs of children where the prioritisation of their safety and wellbeing is put first. It is important that opportunities to support individuals are identified by combating deliberate concealment or rectifying a lack of training or confidence in recognising the signs of abuse.

Focus and resource are needed on prevention so that children can be free to live happy and healthy lives. Further to this capacity and capability are essential

13 Sullivan, P. M., & Knutson, J. F. (2000). Maltreatment and Disabilities: A Population-Based Epidemiological Study. *Child Abuse & Neglect*, 24, 1257-1273.

to establish an improved child protection system so that any new reporting arrangements have sufficient resources for effective support to survivors.

The IICSA Changemakers remain committed to both reviewing the recommendations detailed by the final report of IICSA as a connective suite and sharing our own collective expertise in order to tackle child sexual abuse at every opportunity. This includes engaging on a specific duty regarding mandatory reporting that has considered all the elements described in this submission.