

This draft legislation was engrossed into our submission to the 'Reporting and Acting on Child Abuse and Neglect' consultation. The consultation stemmed from [Amendment 43 tabled by Baroness Walmsley](#) during the Serious Crime Bill. Mandate Now contributed significantly to the amendment, but our proposals here differ in a number of ways.



Our full submission to the consultation is available [here](#)

Proposed legislation for the introduction of mandatory reporting of abuse

(1) Subject to the provisions of sub-sections (6) (7) and (8) providers of any one or more of the activities set out in the Schedule hereto whether or not such activities are defined in any enactment as regulated activities involving children or vulnerable adults and persons whose services are used by such providers being persons who stand in a position of personal trust toward such children or vulnerable adults who while such children or vulnerable adults are in their care have reasonable grounds for knowing or suspecting the commission after the date of this enactment of physical or sexual abuse or abuse by way of wilful neglect on such children or vulnerable adults while the same are in their care whether such commission of abuse shall have taken place or be alleged to have or be suspected of having taken place in the setting of the activity or elsewhere have a duty as soon as is practicable after it shall have come to their knowledge or attention to inform the Local Authority Designated Officer (LADO) or children's services in the case of adults the Designated Adult Safeguarding Manager or such other single point of contact with the Local Authority as such Authority may designate for the purpose of reporting to it any such matter allegation or reasonable suspicion and if made orally to confirm such report in writing no later than [7 days] thereafter.

(2) Failure to fulfil the duty set out in subsection (1) before the expiry of the period of [10] days of the matter or allegation or suspicion first coming to the knowledge or attention of the provider or of any person whose services are used by the provider as defined in subsection (1) is an offence.

(3) For the purposes of sub-section (1) the operators of a setting in which the activity takes place and staff employed at any such setting in a managerial or general welfare rôle are deemed to stand in a position of personal trust and are deemed to have direct personal contact with such children or vulnerable adults as are in their care whether or not such children or vulnerable adults are or have been personally attended by them. In the case of Schools, Sixth Form Colleges, and Colleges of Further Education in private ownership the expression "the operators of a setting" shall include the proprietors, members of governing bodies, and board members in the case of ownership by a limited liability company.

(4) For the purposes of sub-section (1) all other employed or contracted staff or voluntary staff and assistants are deemed to stand in a position of personal trust only if and for the period of time only during which they have had direct personal contact with and have personally attended such children or vulnerable adults.

(5) For the purposes of subsection (1) children or vulnerable adults are or are deemed to be in the care of the providers of the activities set out in the Schedule hereto:

- (a) In the case of the operators of any setting in which the activity takes place and of staff employed by the operators at any such setting in a managerial or general welfare rôle for the period of time during which the operators are bound contractually or otherwise to accommodate or to care for such children or vulnerable adults whether such children or vulnerable adults are resident or in daily attendance wherever the activity is provided, and
- (b) In the case of all other employed or contracted staff or voluntary staff and assistants for the period of time only in which they are personally attending such children or vulnerable adults in the capacity for which they were employed or their services were contracted for.

(6) It shall be a defence to show that the Local Authority Designated Officer or that Children's Services or that in the case of adults the Designated Adult Safeguarding Manager or that such other point of contact with the Local Authority as such Authority may designate for the purpose of reporting was or were duly informed by any other party during the [10] days referred to at subsection (2) or had been so informed prior thereto.

(7) A Secretary of State having responsibility for the welfare safety and protection of children and of vulnerable adults may in exceptional cases by a letter or other instrument under his hand (hereinafter referred to as a "Suspension Document") rescind or temporarily suspend the duty referred to at subsection (1) in the case of any specified child or children or of any specified vulnerable adult or adults concerning whom it appears to him that the welfare safety or the protection of such child or children or of such vulnerable adult or adults would be prejudiced or compromised by the fulfilment of the duty referred to at subsection (1) and may where it appears to him that the welfare safety and protection of children is furthered thereby exempt any specified entity or organisation and the members thereof that works with children generally in furtherance of their welfare and safety and protection or any specified medical officer from compliance with the duty referred to at subsection (1) provided always that no allegation is made against such entity or organisation or member thereof or against such medical officer.

(8) It shall be a defence for any person to show that a Secretary of State acting pursuant to subsection (7) has issued a Suspension Document and it shall be a defence for any person employed by or operating as an entity or organisation that works with children or for any medical officer to show that a Secretary of State has by such Suspension Document whether temporarily

or permanently exempted it and its members or any medical officer from compliance with the duty referred to at subsection (1).

(9) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(10) In this section “providers of activities” has the same meaning as in section 6 of the Safeguarding Vulnerable Groups Act 2006 and “vulnerable adults” has the same meaning as in section 59 of the Safeguarding Vulnerable Groups Act 2006 and “children” means persons who have not attained the age of 18 years.

(11) No action shall lie against any person who in pursuance of the duty set out at subsection (1) informs all or any of the entities to whom report is by subsection (1) required to be made arising out of the making of such report provided the same was made in good faith and all such reports and the identities of the persons making them shall be received and held by their proper recipients in confidentiality.

(12) A Secretary of State having responsibility for the welfare safety and protection of children and of vulnerable adults may without the approval of a resolution of each House of Parliament make an Order varying or adding to or deleting from the list of activities set forth in the Schedule hereto whether or not such activities are defined in any enactment as regulated activities involving children or vulnerable adults and persons whose services are used by such providers being persons who stand in a position of personal trust towards such children or vulnerable adults.

The Schedule

Education including

- I. Schools
- II. Sixth Form Colleges
- III. Colleges of Further Education
- IV. Pupil Referral Units
- V. Residential Special Schools
- VI. Hospital Education Trusts
- VII. Settings of Education other than at Schools
- VIII. Private Tuition Centres

Health Care including

- IX. Hospitals
- X. Hospices
- XI. G.P. Surgeries
- XII. Walk-in Clinics
- XIII. Outpatient Clinics

- XIV. Child Nurseries and Kindergarten provision

- XV. Childminders and childcare providers registered on the Early Years Register or the Compulsory or Voluntary Part of the Childcare Register
- XVI. Registered social care providers and managers for children
- XVII. Children's Homes
- XVIII. Children's Hospices

- XIX. Youth Offender Institutions

- XX. The Probation Service

- XXI. Private Institutions contracted by public bodies to provide services to children or vulnerable adults

- XXII. Organisations providing leisure activities to children or vulnerable adults, such as sports clubs, music, dance or drama groups, youth clubs, Boy Scouts and Girl Guides.

- XXIII. Organisations providing holidays for children or supervising children while on holiday

- XXIV. Churches, Mosques, Synagogues, Temples, and other places of worship and religious organisations¹

- XXV. Services offered to children or vulnerable adults by Local Authorities outwith their statutory duties

- XXVI. Services offered to children or vulnerable adults by the Police outwith their statutory duties

- XXVII. Adult Care Homes

- XXVIII. Transport services including taxis and coaches commissioned by the providers of the Regulated Activities in this schedule.

¹ In the USA, 27 jurisdictions include clergy as mandated reporters (Children's Bureau, Clergy as Mandated Reporters of Child Abuse and Neglect, Child Welfare Information Gateway, Washington, 2012).