

The 'Reporting and Acting on Child Abuse and Neglect' consultation followed [Amendment 43 being tabled by Baroness Walmsley](#) during the passage of Serious Crime Bill (28.10.14).

Since then, Mandate Now has made incremental improvement to our proposal grounded on data and empirical evidence. This update of 16.07.22 conforms to current legislative design expectations.



## **Regulated And Other Activities (Mandatory Reporting of Child Sexual Abuse)**

*Draft legislation to mandate those providing and carrying out regulated or other activities with responsibility for the care of children to report known and suspected child sexual abuse; to protect mandated reporters from detriment; to create a criminal offence of failing to report prescribed concerns; and for connected purposes.*

### **1 Reporting of child sexual abuse**

Subject to the provisions of section 2(7), (8) , and (10) and section 4, providers of any one or more of the activities set out in the Schedule, who have reasonable grounds for knowing or suspecting the commission after the date of the passing of this Act of sexual abuse of children when in their care, must, as soon as is practicable after it comes to their knowledge or attention, report it to -

- a. the Local Authority Designated Officer (LADO), or
- b. Local Authority Children's Services, or
- c. such other single point of contact with the Local Authority as that authority may designate for that purpose.

### **2 Process**

- (1) If the report under section 1 is made orally, the maker of the report must confirm the report in writing no later than seven days thereafter.
- (2) Section 1 applies whether or not the activities are defined in any enactment as regulated activities involving children.

- (3) Section 1 applies whether a commission of sexual abuse takes place, or is alleged or suspected to have taken place, in the setting of the activity or elsewhere.
- (4) For the purposes of 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 role are deemed to stand in a position of trust and are deemed to have direct contact with children in their care whether or not such children are or have been attended by them.
- (5) For the purposes of section 1 all other employed or contracted staff or voluntary staff and assistants are deemed to stand in a position of trust only if they have had direct contact with and have attended such children during their time in such a position.
- (6) For the purposes of section 1 children are or are deemed to be in the care of the providers of the activities set out in the Schedule--
  - (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 role, for the period of time during which the operators are bound contractually or otherwise to accommodate or to care for such children, whether such children 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 in the capacity for which they were employed, or their services were contracted for.
- (7) The Secretary of State may, in exceptional cases, issue a suspension document to rescind or temporarily suspend the duty referred to in section 1 in the case of any specified child or children if it appears to him or her that their welfare, safety or protection would be prejudiced or compromised by the fulfilment of the duty.
- (8) Where it appears to the Secretary of State that the welfare, safety and protection of children is furthered, he or she may exempt—
  - (a) any specified organisation that works with children generally, and its members,  
or
  - (b) any specified medical officer,from compliance with the duty referred to in section 1 provided that no allegation is made against that entity or person.

- (9) The Secretary of State may make regulations varying or adding to or deleting from the list of activities in the Schedule, whether or not such activities are defined in any enactment as regulated activities involving children.
- (10) A person who makes a report under section 1 in good faith, or who does any other thing required by this Act, may not by so doing be held liable in any civil or criminal or administrative proceeding, and may not be held to have breached any code of professional etiquette or ethics, or to have departed from any acceptable form of professional conduct.
- (11) Reports under section 1 and the identities of the persons making them must be received and held by their proper recipients in confidence.

### **3 Offences**

- (1) Failure to fulfil the duty set out in section 1 before the expiry of the period of seven days of the matter, 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 section 2 is an offence.
- (2) A person who causes or threatens to cause any detriment to a mandated person, being a person placed under the duty to report pursuant to section 1 above, or to another person, either wholly or partly related to the mandated person's actual or intended provision of a report under this Act, is guilty of an offence.
- (3) Detriment includes any personal, social, economic, professional, or other detriment to the person.
- (4) A person guilty of any offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **4 Defences**

It is a defence—

- (a) for any person to show that the Secretary of State acting pursuant to subsection 2(7) has issued a suspension document;
- (b) for any person employed by or operating as an organisation that works with children or for any medical officer to show that the Secretary of State has by a suspension document, whether temporarily or permanently, exempted it and its members or any medical officer from compliance with the duty in section 1;
- (c) to show that a report of the commission of the known or suspected child abuse has been made by any other party to the body or person under section 1(a) to(c) before or during the seven days referred to at section 3(1)".

### **5 Definitions**

In this Act—

“children” means persons under the age of 18 years;

“operators of a setting”, in the case of schools, sixth form colleges, and colleges of further education in private ownership, includes the proprietors, members of governing bodies, and board members in the case of ownership by a limited liability company;

“providers of activities” has the same meaning as in section 6 of the Safeguarding Vulnerable Groups Act 2006.

## **6 Extent, commencement and short title**

- (1) This Act extends to England and Wales.
- (2) This Act comes into force at the end of the period of nine months beginning with the day on which it is passed.
- (3) This Act may be cited as the Regulated and other Activities (Mandatory Reporting of Child Sexual Abuse) [*insert year*]

## **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

### Healthcare including

- IX. hospitals
- X. hospices
- XI. GP surgeries
- XII. walk-in clinics
- XIII. outpatient clinics

### Others including

- 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
- XXII. organisations providing activities to children, such as sports clubs, music, dance or drama groups, youth clubs, and Ministry of Defence cadet forces including Sea Cadets, the Volunteer Cadet Corps, the Army Cadet Force, the Air Training Corps, and the Combined Cadet Force
- XXIII. organisations providing holidays for children or supervising children while on holiday
- XXIV. churches, mosques, synagogues, temples, and other places of worship and religious organisations
- XXV. services offered to children by local authorities outwith their statutory duties
- XXVI. services offered to children by the police outwith their statutory duties
- XXVII. transport services including taxis and coaches commissioned by the providers of the regulated activities in this Schedule.

Version 16.07.22