



MandateNow

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## Child abuse is a crime yet reporting it is entirely discretionary

### MANDATORY REPORTING - a 5 minute guide

#### What is the @MandateNow supported by The Survivors Trust calling for?

- A law which requires professionals who work with children in 'Regulated Activities' who know, suspect, or have reasonable grounds for knowing or suspecting child abuse, to inform the Local Authority Designated Officer ('LADO') or in appropriate circumstances children's services. Failure to inform would be a criminal offence. Presently this is only guidance which is all too frequently ignored.
- This legislation would introduce a much stronger culture of abuse prevention as well as support and protect mandated staff. In the absence of law those staff who do report presently are, by default, whistleblowers with very little protection. Law can be a catalyst for behavioural and cultural change. The aim of the proposal is not to criminalise staff but to support them when they are faced with the most challenging circumstances - concerns of potential or known child abuse. Being legally mandated to inform a Designated Officer, who must then inform the 'LADO,' removes an enormously challenging set of decisions staff are currently being asked to make and for which they are ill-equipped.
- Our proposal simplifies 13 pages of referral '**guidance**' for schools: 'DEALING WITH ALLEGATIONS OF ABUSE AGAINST TEACHERS AND OTHER STAFF.' It will ensure an experienced LADO who is independent of the setting in which the allegation has arisen, assesses all allegations as a matter of course. Presently the decision whether to even inform the LADO is being taken by staff at the setting who are neither independent of the child nor those who are likely to be involved, nor do they possess the specialist training that is so important in these situations.

#### What are Regulated Activities?

'Regulated Activities' are legally defined in Schedule 4, Part 1 and Part 2 of the SAFEGUARDING VULNERABLE GROUPS ACT 2006. They include schools, faith organisations, children's homes, health organisations including the NHS, national sports bodies and similar institutions where children are cared for *in loco parentis* by adults other than their parents.

<http://www.legislation.gov.uk/ukpga/2006/47/schedule/4>

#### Will the proposed new legislation cover abuse outside 'Regulated Activities?'

The proposal for new law only applies to Regulated Activities; the staff who work in them; and the children who attend. It will cover known or suspected abuse of any child who attends the RA wherever the alleged or actual abuses occurred.

### **What are the current rules and why are they failing?**

Presently, the guidance advises staff working in Regulated Activities '**should**' inform their Designated Safeguarding Officer (DSO) of any disclosures, concerns, or known abuses but this is not statutorily underpinned. There exists therefore nothing more than a behavioural expectation on staff to report such concerns. After the DSO has assessed a report, usually with the principal of the Regulated Activity, the principal and the Chair of Governors (in the case of a school) make a decision whether the incident has reached subjective thresholds that indicate it '**should**' be referred to the LADO. This assessment '**should**' consider whether an adult has:

- in a way that has harmed or may have harmed a child
- possibly committed a criminal offence related to a child
- behaved in a way that indicates that s/he is unsuitable to work with children

The personnel conducting the assessment and making these decisions are ill-equipped to do so because they have no specialist training. Any failure to refer an allegation that meets the subjective thresholds carries no legal sanction because there is no statutory obligation to make a referral. Furthermore the '**statutory guidance,**' (an oxymoron) is grounded upon the undeliverable assumption that 'professionals' will always follow guidance.

Serious Case Reviews have repeatedly revealed that 'professionals,' and others, have often suspected years before that abuse was taking place but failed to inform anyone contrary to guidance.

Reasons for staff not reporting to their Designated Officer include<sup>1</sup>:

- Confusion and disbelief at what has been witnessed / reported
- Self-doubt
- Alleged perpetrator is a colleague and possibly a friend
- Alleged perpetrator is more senior and more powerful than witness
- Alleged perpetrator is an aggressive parent
- Witness or concerned staff member (to abuse) is sole wage earner in family
- Fear of ostracisation / repercussions for making a report
- Fear of the consequences
- Cannot be bothered

Reasons for the Administration of a Regulated Activity failing to report to the LADO:

- Lack of experience and understanding of subject
- Desire to protect the reputation of the institution
- Defence of balance sheet and other financial incentives if the setting is a fee receiving institution/quasi independent setting (Academy/Free School/Trust)

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<sup>1</sup> Example of many of these can be seen in the Serious Case Review for Hillside First School Weston Super Mare <http://www.northsomersetscb.org.uk/uploads/files/283.pdf>

- Loyalty / friendship with the abuser
- Not believing the child
- Don't want the inconvenience of an investigation

**What if many more minor reports are made by staff, and this overwhelms the LADO?  
Could it mean that serious cases are more likely to be missed?**

The coalition wishes to see a uniform and high quality training programme for LADO's. This does not presently exist. We wish to see a strengthening of their role very much along the lines of the Australian 'triage' model currently in development. With our proposed system of assured prompt reporting, serious cases are more likely to be picked up sooner. The preventative influence of the proposed legislation will deliver a positive cultural change to safeguarding as it has done in Regulated Activities in Northern Ireland which has also developed prescriptive child protection policies that deliver so many benefits.

**Will there be a spike in reports?**

- Inevitably there will be. There has been in all countries that introduced mandatory reporting. Legislation in other countries often includes Mandatory Reporting in familial settings which our campaign does not seek. Like for like statistical data for Regulated Activities only, is not available to assist accurate forecasting of any potential spike.
- The social cost of child abuse is significant and includes NHS treatment for abusees particularly mental health, drug and alcohol addiction which often has links to crime, lost work days and sadly suicide. And this is before one considers the cost and consequences of abuse on the families and extended networks around each abusee. Child abuse casts a shadow the length of a lifetime.

**Will it lead to more unfounded allegations?**

- Some media commentators wrongly suggest that 'false allegations' are common but DfE Research states that false allegations account for 2% of all cases received by LADOs. Please refer to DfE Research Report: DFE-RR192 by York LLP March 2012 titled 'Allegations of abuse against Teachers and other Staff' at paragraph #10. [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/183532/DFE-RR192.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/183532/DFE-RR192.pdf)
- These statistics apply to schools, the Regulated Activity in which children spend most time (180 days per annum). No research exists for allegations from other Regulated Activities such as faith settings, hospitals or sports bodies.

**Is there any legal precedent for mandatory reporting in the UK?**

As mentioned earlier in this guide, mandatory reporting already exists in Northern Ireland. Barry Gardiner MP (Brent North) was responsible for its strict application to educational settings during his time there as a junior minister for Northern Ireland in Tony Blair's government.

## **Examples of abuse in Regulated Activities where either staff or the setting operators did not report concerns or known abuses :**

In all of these settings, no-one could be held to account for non-reporting of abuse or the continued abuse of children or vulnerable adults because there is no law requiring anyone to report. The statutory framework confers responsibility for the protection of vulnerable groups on the staff and owners of these settings, but with little accountability:

- Southbank International School, London
- Hillside First School. 14 years of unreported child abuse, Weston Super Mare, Somerset
- St Benedict's School, Ealing, London
- Downside School, Gloucester
- Bryn Estyn Care Home, Wrexham, Wales
- Diocese of Chichester (CofE)
- Arch Diocese of Birmingham (Catholic)
- Gatehouse School, Milton Keynes, Bucks
- King's School, Rochester, Kent
- Stony Dene School, Amersham, Bucks
- Winterbourne View Care Home, Bristol
- Little Teds Nursery, Plymouth, Devon
- Little Stars Nursery, Birmingham

### **Expected Reports**

- The next review by Kate Lampard into Savile's behaviour at Stoke Mandeville is due to be published in September 2014. We hope it will provide an explanation why nurses at allegedly told children to '*pretend to be asleep if he comes around.*'

**@MandateNow is supported by:**



**THE SURVIVORS TRUST:** The Survivors Trust (TST) is a national umbrella agency for over 130 specialist rape, sexual violence and childhood sexual abuse support organisations throughout the UK. It includes charities such as Respond and Survivors UK,; [www.thesurvivorstrust.org](http://www.thesurvivorstrust.org)

**Our Petition is here: <http://goo.gl/MoCesd>**

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