

Mandatory reporting NHS England consultation response NHS England's response on consultation for mandatory reporting

This information will be transposed onto the online consultation once agreed.

Rationale: represents NHS England's safeguarding response to the questions. If you have any questions about this response, please contact Helen Hipkiss, Head of Safeguarding, helen.hipkiss@nhs.net

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree	Don't Know
1. To what extent do you agree or disagree with the following statements about the current child protection system?						
Child protection training for practitioners should be improved so that they are better qualified and able to provide the right help at the right time to keep children safe. Rationale: Training should continually be improved to reflect the changing priorities for safeguarding such as the new focus on Modern Slavery.		√				
More needs to be done within the child protection system to encourage new and innovative systems to better protect children. Rationale: Safeguarding needs to be able to adapt to changing ways in which children are harmed, for example the increasing use of social media to target vulnerable individuals.		√				
Organisations with child protection responsibilities need to work better together. Rationale: Serious case reviews highlight the need for organisations and individuals to work together to protect children.	√					

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree	Don't Know
Practitioners and organisations with child protection responsibilities sometimes recklessly fail to take proper action (including reporting) to stop or prevent child abuse and neglect. Rationale: The evidence shows that the majority of professionals act to safeguard children. On rare occasions, staff do not follow the statutory duties.				√		
Child abuse and neglect is generally under-reported by practitioners involved in children's lives. Rationale: The evidence suggests that the majority of professionals do report cases to social care.				√		
The introduction of a mandatory reporting duty						
The following questions seek your views on of the possible introduction of a mandatory reporting duty. 2. To what extent do you agree or disagree with the following statements?						
Mandatory reporting will generate more reports of suspected and known cases of child abuse and neglect. Rationale: Practitioners have raised concerns that the opposite is more likely, whereby staff will hold on to cases rather than report incorrectly.				√		
Increased reporting may divert attention from the most serious child abuse and neglect cases. Rationale: Agreed, there is a risk that more cases may be reported, overburdening social care and cases could then be missed.		√				
Increased reporting could mean that abuse and neglect would be captured at an early point in a child's life. Rationale: Reporting too many cases may have the opposite effect if social care cannot manage all the cases. Social care may increase the referral threshold to manage referral levels.				√		

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree	Don't Know
Mandatory reporting could have an adverse impact on the child protection system (e.g. impacting recruitment and retention of staff, creating a culture of reporting rather than acting, negatively impacting the serious case review process). Rationale: Agreed, practitioners have raised these.		√				
Mandatory reporting could dissuade victims from disclosing incidents of abuse and reduce 'safe spaces' for children. Rationale: Practitioners have raised concerns that victims may not disclose if they know the case will be reported. It should be noted that under the existing duty staff should act if a victim discloses abuse, but the victim may not be aware of this.		√				
Mandatory reporting could lead to greater prevention and awareness of abuse and neglect. Rationale Staff are concerned that the reporting may reduce prevention because cases maybe held rather than be reported incorrectly.				√		
The introduction of a mandatory reporting duty would not in itself mean that appropriate action would be taken to protect children. Staff may not report cases if they are unsure their concerns are correct, even though there have legal duty to do so.		√				
A mandatory reporting duty would ensure that those best placed to make judgements about whether abuse or neglect is happening – i.e. social workers – do so. Rationale: Without the correct referral thresholds to social care and a workforce with the capacity to act this cannot be guaranteed. Serious case reviews indicate that cases are referred but not always acted upon by social workers.				√		

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	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree	Don't Know
3.						
To what extent do you agree that the introduction of a mandatory reporting duty would directly improve outcomes for children? There is limited evidence to suggest outcomes would improve.			√			
4. Please outline any risks or benefits regarding the introduction of a mandatory reporting duty that haven't been articulated in the consultation.						
<input type="checkbox"/> Covered above						
The introduction of a duty to act The following questions seek your views on the possible introduction of a duty to act.						
5. To what extent do you agree or disagree with the following statements?						
A duty to act could strengthen accountability on individuals and organisations in protecting children from abuse and neglect. Rationale: The accountability is covered in the existing safeguarding statutory duties for children.				√		
A duty to act could have an adverse impact on the child protection system (e.g. impacting recruitment and retention of staff, and negatively impacting the serious case review process).		√				
A duty to act on child abuse and neglect would be more likely to lead to better outcomes for children than a duty focused solely on the reporting of child abuse and neglect.		√				

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly Disagree	Don't Know
A duty to act allows professionals discretion to decide what action should be taken to best protect children in each case. Rationale: The duty to act should ensure a referral is made to social care. Social services with partners make the decision on the most appropriate actions required to safeguard the child.				√		
The focus of sanctions for the duty to act on deliberate or reckless failures would ensure that those responsible for the very worst failures in care would be held accountable. Rationale: The duty to act is covered in the existing safeguarding statutory duties for children; an extension to <u>vulnerable</u> adults would be welcomed.				√		
6. To what extent do you agree that the introduction of a duty to act would directly improve outcomes for children? Rationale: There is limited evidence to suggest outcomes would improve.				√		

7. Please outline any risks or benefits regarding the introduction of a duty to act that haven't been articulated in the consultation.

- All included in the above rationale responses.

8. Having considered the issues outlined in the consultation and your answers above, which of the following would be most preferable? Please choose one option only.

Please Tick

Allowing the package of reform measures focused on improving how the whole system responds to child abuse and neglect to be implemented before considering the introduction of additional statutory measures. **Rationale: There is limited evidence that a duty to report or extending the duty to act would improve outcomes.**

√

The introduction of a mandatory reporting duty focused on increasing the reporting of child abuse and neglect.	
The introduction of a duty to act, focused on taking appropriate action in relation to child abuse and neglect, with sanctions for deliberate and reckless failures.	
Scope, accountability and sanctions This section is optional and relates only to the possible introduction of a mandatory reporting duty or a duty to act.	Please Tick
9. If a new statutory measure is introduced, do you agree with the following elements of the proposed scope?	
Apply to all forms of child abuse and neglect (including online abuse and grooming).	√
Apply to both suspected and known child abuse and neglect.	√
Apply to abuse or neglect encountered during the course of a practitioner's day-to-day role only.	√
Apply to abuse or neglect within the home and within organisations or institutions, e.g. boarding schools.	√
Apply to present day abuse and neglect only (i.e. it would not apply retrospectively). Rationale: The duty should apply to when a victim is able to disclose their abuse or neglect. This maybe sometime after the event but we should act to ensure they are supported at that time but also to ensure others are not still at risk of harm.	
Apply to children under 18 only. Rationale: Adult should be included to strengthen the existing legislation.	
Be triggered if a practitioner had "reasonable cause to suspect" a child was being abused or neglected, or was likely to be abused or neglected.	√
10. If there are aspects of the proposed scope that you disagree with, or you would like to provide further information to support your answer to question 9, please do so here:	
<input type="checkbox"/> Nothing further to add.	
11. If you believe new statutory measures should extend to adults, please provide further information, taking into account the existing wilful neglect offence.	

Yes, the current legislation for wilful neglect does not completely protect the most vulnerable (child or adult). If the consultation was to fulfil the requirements to protect, it should consider the full scope of safeguarding concerns and ensure that both children and adults are protected.

12. Should the proposed activities outlined in paragraphs 65–68 of the consultation and table 1 be included if a new statutory measure were to be introduced?

Yes

13. Please provide your views, noting if any activities listed should be removed, and if there any other activities that should be included.

Table 1 page 20 should state all registered health professionals.

14. If a new statutory measure is introduced, where do you think accountability should rest (see paragraphs 69–70 of the consultation)? **Please Tick**

At an individual level.

At an organisational level.

At both an individual level and an organisational level. Rationale: A joint accountability ensures that a variety of existing measures can be used to take action if the duty is not meet, such as referral to a professional body or the inspectors.

√

15. If a new statutory measure is introduced, what do you think the type of sanction should be if it is breached (see paragraphs 71–74 of the consultation)? **Please Tick**

Existing practitioner and organisation specific sanctions only. Sufficient sanctions are in place now.

√

Existing practitioner and organisation specific sanctions **plus** additional sanctions involving the Disclosure and Barring Service (available only at an individual level).

Existing practitioner and organisation specific sanctions **plus** criminal sanctions.

16. Please provide further information about the reasons for your answers to the above questions on scope, accountability and sanctions, if you would like to do so.

The recognition and response to child abuse and safeguarding is complex. There are many features which may or may not mean that a child has suffered or is at risk of suffering child abuse. Practitioners have raised that the introduction of mandatory reporting and acting on child abuse and neglect will encourage a blame culture and tick box approach to safeguarding. Evidence from serious case reviews indicates that such cultures are likely to prevent professionals from taking action to safeguard children. Frontline staff suggest undertaking evidence based training to improve recognition of harm, alongside supporting staff to raise concerns and share information would be a more appropriate approach to improving protection for children.

Additional information

17. Please detail any additional information that you feel should be taken into account in this consultation. This could include, but is not limited to:

- the operational impact of introducing a new statutory measure including on small
- businesses such as nurseries or children's homes;
- how the new duty should interact with the existing FGM mandatory reporting model; and
- any additional research/evidence not referred to in the consultation document.
- the operational impact of extending either of the statutory measures to vulnerable adults