

<p><b>Mandate Now Review HoC Briefing Paper</b>  <b>Child Protection: duties to report concerns (England)</b></p>	
<p>Briefing paper content</p>	<p>Mandate Now commentary and evidence</p>
<p><b>Summary</b></p>	
<p>This House of Commons Library Briefing Paper sets out the current requirements on individuals and organisations regarding the reporting of known or suspected child abuse or neglect. It also provides information on the debate around whether a mandatory duty to report abuse or neglect should be introduced in England and outlines the operation of such mandatory duties in other countries.</p>	
<p>Current position</p>	
<p>There is no general legal requirement on those working with children in England to report known or suspected child abuse or neglect. Nevertheless, the statutory guidance, <a href="#">Working Together to Safeguard Children</a>, states that “anyone who has concerns about a child’s welfare should make a referral to local authority children’s social care and <b>should</b> do so immediately if there is a concern that the child is suffering significant harm or is likely to do so.” While statutory guidance does not impose an absolute legal requirement to comply, it requires practitioners and organisations to take it into account and, if they depart from it, to have clear reasons for doing so.</p>	<p>‘Statutory guidance’ advises on the application of law. There is no law to report suspected or even known child abuse.</p> <p><b>‘Should</b> make a referral’ <b>is discretionary and therefore no more than an unenforceable expectation.</b></p> <p>The ‘statutory guidance’ imposes no legal requirement to comply (a legal obligation can only be defined in law). Professional sanction for failing to report usually happens years after crimes on the child have been committed. The strongest sanction is to be disbarred from the profession. One only need look to IICSA, the Scottish CAI and the Hart Inquiry (Northern Ireland) to see that professional expectation is not an effective means of ensuring reporting occurs.</p>
<p>Non-statutory advice published by the Department for Education, <a href="#">What to do if you’re worried a child is being abused</a>, complements the statutory guidance and aims to help practitioners identify child abuse and neglect and take appropriate action in response.</p>	<p>It does not help the practitioner report a concern.</p>

<p>In addition, a number of professional regulators and bodies (predominantly those in the health and social care sectors) require their members to report any concerns about a child’s safety or well-being. A professional’s failure to adhere to such standards or codes of conduct may result in misconduct or fitness to practise proceedings against them.</p>	<p>Again, there is no requirement to report known or suspected abuse in any profession - there are merely expectations. We have already commented that expectation only, fails professionals and the children in their charge. IICSA has repeatedly shown this to be the case.</p>
<p>Mandatory reporting duty</p>	
<p>There have been calls for a mandatory duty to report known or suspected child abuse and neglect to be introduced for specific groups, such as social workers and teachers. Proponents argue that a mandatory reporting duty would offer greater protection to children.</p>	<p>This is a mistaken assertion. No call has been made by Mandate Now or Baroness Walmsley for MR to be introduced to the social work profession. That was a government proposal first made in the long-delayed consultation. The documents for it were placed in the House of Commons on 21/7/2016 the final day of Parliament before the start of summer recess.</p>
<p>In July 2016, the Government launched a consultation which sought views on two possible reforms in relation to reporting child abuse and neglect:</p> <ul style="list-style-type: none"> <li>• The introduction of mandatory reporting of child abuse and neglect.</li> </ul>	<p>The design of MR proposed in the Home Office consultation bore <a href="#">little resemblance to Amendment 43 tabled by Baroness Walmsley</a>. It seemed to have been designed to achieve one outcome – to be so thoroughly rejected by everyone that the Home Office could conclude that there should be no change to the failing status quo.</p>
<ul style="list-style-type: none"> <li>• The introduction of a duty to take appropriate action in relation to child abuse or neglect.</li> </ul>	<p><a href="#">We wrote a critique on this incoherent suggestion 2/10/16</a>. The essence of the critique was that it was unworkable in that it proposed a legal obligation to act in unspecified ways in response to unspecified situations. <a href="#">It was extraordinary to see that even the National Police Chiefs’ Council threw its weight behind it.</a></p>
<p>In its response to the consultation, published in March 2018, the Government stated that it had decided against introducing either a mandatory reporting duty or a duty to act. While recognising the argument that mandatory reporting could reduce the risk that serious cases pass unnoticed, the Government response raised a number of risks associated with such a duty or a duty to act.</p>	<p>The Government’s justifications were hypothetical “what if” scenarios. None of them was backed by any evidence, and no attempt had been made to see whether these scenarios had occurred in the many jurisdictions which have implemented mandatory reporting laws. (They haven’t.)</p>
<p>Mandatory reporting in other countries</p>	

<p>Since April 2016 certain public bodies in Wales have been under a duty to inform the local authority if they have “reasonable cause to suspect that a child” is experiencing or is at risk of abuse, neglect or other kinds of harm; or has care and support needs. The duty applies at an organisational level, rather than to individuals.</p>	<p><a href="#">The alleged mandate in Wales was reviewed by IICSA</a>. Interestingly Mr <a href="#">Albert Heaney</a> the Deputy Director General of Wales with responsibility for social care said that <a href="#">the Welsh version of MR had not produced an increase of referrals</a>. The following day Riel Karmy Jones QC <a href="#">the facilitator of the meeting, made the following comments</a>. Had well-designed MR been introduced to Wales then an immediate doubling of children placed into safety would probably have been delivered. Data from multiple jurisdictions underpins our assertion – <a href="#">here’s one</a>. This claimed MR does not apply to education, healthcare, sport or faith and many other professions who care for children. Put simply Wales does not have MR – it is counterfeit. Welsh law does not make it a criminal offense to fail to report, indeed it offers no sanction for failing to fulfil the duty. These are the essential elements of anything one might reasonably call “mandatory”.</p>
<p>Mandatory reporting laws also exist in a number of other countries internationally, including Australia, Brazil, Canada, Denmark, France, Hungary, the Republic of Ireland, Israel, Norway and the United States.</p>	<p>This is masterly understatement – <a href="#">MR exists in the majority of jurisdictions in the rest of the world</a></p>
<p>Although there is significant variation, the core components of mandatory reporting laws include:</p>	
<ul style="list-style-type: none"> <li>• Who is covered by the duty</li> </ul>	
<ul style="list-style-type: none"> <li>• What must be reported</li> </ul>	
<ul style="list-style-type: none"> <li>• Who the report must be made to</li> </ul>	
<ul style="list-style-type: none"> <li>• Sanctions for failing to report</li> </ul>	
<p>In an annex to its 2016 consultation the Government stated that a lack of academic consensus concerning the effects of mandatory reporting means that it is not possible “to make firm conclusions about whether such schemes improve, worsen, or have no affect on child safeguarding outcomes.”</p>	<p>This is the Government’s position – however empirical evidence of the impact of MR was simply omitted from the consultation documentation, particularly this piece of research: <a href="#">IMPACT OF NEW MANDATORY REPORTING LAW ON REPORTING AND IDENTIFICATION OF CHILD SEXUAL ABUSE: A SEVEN YEAR TIME TREND ANALYSIS</a>. This article was published three months before the consultation documents were placed in the Parliament yet no reference to it appears in the documents.. The jurisdiction was Western Australia which was the last State in Australia to adopt MR in 2009 due to political dogma.</p>

<h1>1. Current position</h1>	
<h2>1.1 Responsibility of individuals to raise concerns</h2>	
<p>Local authorities in England have overarching responsibility for safeguarding and promoting the welfare of children in their area. As part of this, they have a number of statutory functions under the 1989 and 2004 Children Acts. This includes undertaking assessments of children who are in need or are suffering, or likely to suffer, significant harm in order to determine what services should be provided and what action should be taken.<sup>1</sup></p>	
<p><b>Box 1: Safeguarding partners and local safeguarding arrangements</b></p>	
<p>Under the <i>Children Act 2004</i>, as amended by the <i>Children and Social Work Act 2017</i>, three safeguarding partners – the local authority, NHS Clinical Commissioning Groups (CCGs), and police forces – are responsible for determining how safeguarding arrangements should work in their area for them and relevant agencies. “Relevant agencies” is a term used for all bodies and groups within an area which play a crucial role in coordinating the safeguarding and welfare of children. The Working Together to Safeguard Children statutory guidance states that the purpose of these local arrangements is to enable organisations to work together in a system where, among other things, “there is early identification and analysis of new safeguarding issues and emerging threats.”<sup>2</sup></p>	
<p>While local authorities play the lead role, the statutory guidance <a href="#">Working Together to Safeguard Children</a> stresses that “everyone who works with children has a responsibility for keeping them safe.” “Everyone who comes into contact with [children and families]”, it says, “has a role to play in identifying concerns, sharing information and taking prompt action.”<sup>3</sup></p>	<p>Demonstrably <a href="#">‘Working Together’ as applied to Regulated Activities is dysfunctional</a>. This will continue while government ignores the all-important safeguarding role of Regulated Activities which are failed by a safeguarding framework that is <a href="#">grounded entirely on social work practice and then misapplied to institutional settings where Regulated Activities</a> commonly work.</p>

<sup>1</sup> Further information on local authorities’ statutory safeguarding duties is provided in Library Briefing 6787, [An overview of child protection legislation in England](#), and in pages 21-55 of HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), July 2018.

<sup>2</sup> HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), July 2018, p73.

<sup>3</sup> As above, p10.

<p>While there is no general legal requirement on those working with children to report either known or suspected child abuse or neglect, the statutory guidance 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.” It adds that practitioners who make a referral should always follow up their concerns if they are not satisfied with the response.”<sup>4</sup> While statutory guidance does not impose an absolute legal requirement to comply, it requires practitioners and organisations to take it into account and, if they depart from it, to have clear reasons for doing so.<sup>5</sup> Annex C of the Government’s 2016 consultation on reporting and acting on child abuse and neglect (see section 2 below) provided information on the possible sanctions where a person fails to follow the guidance.<sup>6</sup></p>	<p>Government ‘guidance’ (absent of law requiring a referral to be made in prescribed circumstances) is a triumph of hope over reality. No one has ever been prosecuted for failure to comply with ‘expectations’ because no such law can exist. A requirement to take the guidance “into account” can be met by the guidance being read, and then a setting choosing for whatever reason it decides, to do things differently.</p> <p>As for post incident accountability, which entirely misses the point of supportive mandatory reporting, they are grounded almost entirely on professional sanction when such incidents finally come to public attention usually years after the event. All the child abuse inquiries have clearly made this point. Many personnel employed in RA’s are not members of professions.</p> <p>As far as the DBS is concerned – no reliance can be placed on this service. <a href="#">Mandate Now evidenced this in correspondence to the Chair of IICSA</a>. Our letter was in part used to <a href="#">question Dr Suzanne Smith, Director Safeguarding DBS in when she gave evidence to IICSA</a>. Interestingly, a referral to the DBS is mandatory and there is a criminal sanction for failing to report a referral (which has never been prosecuted despite the failures we listed in our letter to Prof Jay), yet no murmur of complaint is made.</p>
<p>Local authority children’s social care is responsible for clarifying the process for referrals and should, the guidance states, “act as the principal point of contact for safeguarding concerns relating to children.” The guidance adds that, as well as developing protocols for practitioners working with children and families, “contact details should be signposted clearly so that children, parents and other family members are aware of who they can contact if they wish to make a referral, require advice and/or support.”<sup>7</sup></p>	<p><b>It’s worthwhile mentioning there is no national training scheme for Local Authority Designated Officers.</b> This leads to infinite variability in LADO services across the country. Furthermore, safeguarding training for Regulated Activities is delivered by trainers who are unaccredited because there is no national accreditation scheme. <a href="#">We raised establishing an accreditation scheme with NSPCC hoping that we could encourage its involvement but received no reply.</a></p>

<sup>4</sup> As above, p16.

<sup>5</sup> HM Government, [Reporting and acting on child abuse and neglect: Government consultation](#), July 2016, p5.

<sup>6</sup> HM Government, [Reporting and acting on child abuse and neglect: Government consultation: supporting annexes](#), pp11-13.

<sup>7</sup> HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), July 2018, p16.

Advice for individuals	
Government non-statutory advice, <a href="#">What to do if you're worried a child is being abused</a> , complements the Working Together statutory guidance. The advice aims to help practitioners identify child abuse and neglect and take appropriate action in response. It is intended for anyone whose work brings them into contact with children and applies in relation to all children irrespective of whether they are living at home with their families and carers or away from home.	
The advice sets out some guiding principles for people who encounter children during their normal working activities [emphasis in original]:	
You should make sure that you are <b>alert</b> to the signs of abuse and neglect, that you <b>question the behaviour</b> of children and parents/carers and don't necessarily take what you are told at face value. You should make sure you know where to turn to if you need to <b>ask for help</b> , and that <b>you refer</b> to children's social care or to the police, if you suspect that a child is at risk of harm or is immediate danger. <sup>8</sup>	'Should' refer to children's social care. 'Should' has been omitted from this paragraph of the briefing paper. 'Should' is an unenforceable expectation.
Further information on each of these principles is provided in a section of the advice on "taking action" (pages 11-15).	These are 'expectations' without the any legal foundation.
The advice states that practitioners should make sure they understand and work within the local safeguarding arrangements in their area. They should also, it says, "not let other considerations, like the fear of damaging relationships with adults, get in the way of protecting children from abuse and neglect." If a person thinks a referral to children's social care is necessary, they "should view it as the beginning of a process of inquiry, not as an accusation." <sup>9</sup>	A referral made because of the existence of well-designed mandatory reporting is a neutral act. This is unlike a referral made on a discretionary footing, the current system in England and Wales.  <a href="#">Here is Richard Scorer of Slater Gordon explaining this in clear terms during his closing argument of the IICSA Residential Schools hearing 27/11/20.</a>

<sup>8</sup> HM Government, [What to do if you're worried a child is being abused: Advice for practitioners](#), March 2015, p4. <sup>9</sup> As above.

<p><b>Other non-statutory obligations to report concerns</b></p>	
<p>Members of a number of professions – including healthcare workers, social workers, police and teachers – are <b>expected</b> to adhere to professional standards or codes of conduct. A briefing note published by the Independent Inquiry on Sexual Abuse noted that most codes of conduct or standards require professionals to report concerns about a colleague’s fitness to practice, “which would include any concerns related to sexual abuse of children or adults.” The note added that:</p>	<p>The failure of non-statutory ‘expectations’ that professionals <b>‘should’</b> report concerns of suspected or known child abuse is why mandatory reporting is needed. The law is good for professionals and for the children for whom they care as evidence confirms.</p> <p>Ironically, it was an American paediatrician (Henry Kempe) and a group of colleagues who recognised child abuse at their hospital in Colorado. In 1962, Kempe with Brandt F. Steele published the paper "The Battered Child Syndrome", which led to the identification and recognition of child abuse by the medical community. The first mandatory reporting legislation that applied to professionals in healthcare, teaching and other specified professions, was introduced in the State of Colorado in 1972. Fifty years later the subject is finally visible here in England and Wales thanks to Amendment 43 tabled by Baroness Walmsley.</p>
<p>A number of professional regulators and bodies (predominantly those in the health and social care sectors) specify that their members should report any concerns about a child’s safety or well-being, regardless of the identity of the suspected perpetrator or the setting. A professional’s failure to adhere to standards or codes of conduct may result in misconduct or fitness to practise proceedings against them.<sup>9</sup></p>	<p>IICSA has also heard evidence of many instances of abuse in an institutional setting not being reported, despite the staff in those settings being supposedly under this professional duty to report. Clearly the prospect of a future misconduct hearing is insufficient to ensure reporting occurs when counterbalanced against the disincentives to report that have been described in evidence to IICSA.</p>
<p><b>1.2 Organisational responsibilities</b></p>	
<p>Section 11 of the <i>Children Act 2004</i> places a duty on a range of agencies and individuals to ensure that their functions, and any services they contract out to others, are carried out having regard to the need to safeguard and promote the welfare of children. The duty applies to:</p>	
<ul style="list-style-type: none"> <li>• Local authorities and district councils</li> </ul>	<p>Excluded from our MR proposals and those tabled by Baroness Walmsley in Amendment 43 as are social workers, since these would generally be the <i>recipients</i> of the mandatory reports. Social workers have a statutory duty to act on reports received.</p>

<sup>9</sup>Independent Inquiry into Child Sexual Abuse, [Seminar briefing note: Mandatory reporting: Existing obligations to report child sexual abuse](#), September 2018, pp3-4.

<ul style="list-style-type: none"> <li>NHS organisations, including NHS England, clinical commissioning groups, NHS trusts, NHS Foundation Trusts, and General Practitioners</li> </ul>	Healthcare is one of the professions that <b>must</b> be mandated to report child abuse. <a href="#">Draft law is available here</a> . It differs slightly from Baroness Walmsley’s amendment
<ul style="list-style-type: none"> <li>The police, including the chief officer of each police force in England and Mayor’s Office for Policing and Crime in London.</li> </ul>	Excluded from our MR proposals
<ul style="list-style-type: none"> <li>The British Transport Police</li> </ul>	Excluded from our MR proposals
<ul style="list-style-type: none"> <li>The National Probation Service and Community Rehabilitation Companies</li> </ul>	
<ul style="list-style-type: none"> <li>Governors/Directors of Prisons and Young Offender Institutions</li> </ul>	
<ul style="list-style-type: none"> <li>Directors of Secure Training Centres</li> </ul>	Included in our MR proposals as are personnel who care for children in these settings
<ul style="list-style-type: none"> <li>Principles of Secure Colleges</li> </ul>	Included in our MR proposals as are personnel who care for children in these settings
<ul style="list-style-type: none"> <li>Youth Offending Teams/Services.<sup>10</sup></li> </ul>	Included in our MR proposals
The statutory guidance, <a href="#">Working Together to Safeguard Children</a> , sets out the arrangements that organisations subject to the section 11 duty should have in place. These include (but are not limited to):	Once again, it’s necessary to say that statutory guidance is meant to guide the user in how to apply the law, but there is no law to report suspected or known child abuse as the next paragraph entitled ‘whistleblowing’ reveals
<ul style="list-style-type: none"> <li>Clear whistleblowing procedures and a culture that enables issues around safeguarding and promoting the welfare of children to be addressed.</li> </ul>	Whistleblowing is an expectation.
<ul style="list-style-type: none"> <li>Clear escalation policies for staff to follow when their child safeguarding concerns are not being addressed within their organisation or by other agencies.</li> </ul>	Escalation of concerns is an ‘expectation’ only.
<ul style="list-style-type: none"> <li>A designated practitioner for child safeguarding.</li> </ul>	In possession of unaccredited training.
The guidance adds that staff in these organisations should be given a mandatory induction, “which includes familiarisation with child protection responsibilities and the procedures to be followed if anyone has concerns about a child’s safety and welfare.” <sup>11</sup>	If an induction is mandatory, then the wording should be ... <b>must</b> be given a mandatory induction.’

<sup>10</sup> HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), July 2018, p55.

<sup>11</sup> HM Government, [Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children](#), July 2018, pp55-6.

<p>The guidance also summarises further safeguarding duties placed on individual organisations and agencies, including schools, though other statutes.<sup>12</sup></p>	<p>There is no law to report known or suspected child abuse. This collection of words is a triumph of hope over the reality of the work.</p>
<h2>2. A mandatory duty to report suspected abuse and neglect</h2>	
<p>As set out in section one above, in England there is <b>currently</b> no general legal requirement on those working with children to report known or suspected child abuse or neglect. There have been calls, in particular following high profile child abuse cases such as the 2013 murder of Daniel Pelka, for a mandatory duty to be introduced for specific groups, such as social workers and teachers.<sup>13</sup> Proponents of mandatory reporting argue that England should follow the example of countries where it is a criminal offence for certain professionals not to report suspected child abuse to the authorities. They contend that doing so would offer greater protection to children.<sup>14</sup></p>	<p>The highlighted adjective in the opening line is unnecessary.</p> <p>Social workers were never included in Walmsley’s amendment. The Home Office mischievously included this profession knowing full well that social workers would object to MR whilst they have absolutely nothing to do with the design or delivery of safeguarding in Regulated Activities.</p>
<p>Box 2: Common law duty negligence</p>	
<p>In common law jurisdictions like England, laws relating to negligence require any person to take reasonable steps to prevent harm to those to whom they owe a duty of care. A briefing note published by the Independent Inquiry into Sexual Abuse noted, however, that these laws are not themselves considered mandatory reporting laws and “in jurisdictions that have mandatory reporting, the relevant legislation coexists with these more general duties and does not replace them.”<sup>15</sup></p>	<p><b>It is worth noting that even when abuse was known to the management of a setting and admitted by the perpetrator rather than being merely suspected, no prosecution for failing to report it to the authorities has ever been attempted under any generalised common law on negligence.</b></p>

<sup>12</sup> As above, pp58-71.

<sup>13</sup> See for example, [Starved boy Daniel Pelka 'invisible' to professionals](#), 17 September 2013, BBC News; [Daniel Pelka: call for debate on mandatory reporting of child abuse](#), Guardian, 17 September 2013.

<sup>14</sup> For example, see [HC Deb 12 September 2013, c1234](#).

<sup>15</sup> Independent Inquiry into Child Sexual Abuse, [Seminar briefing note: Mandatory reporting: Existing obligations to report child sexual abuse](#), September 2018, p2.

<h2>2.1 Government consultation</h2>	
<p>In July 2016, the Government launched a <a href="#">consultation on Reporting and acting on child abuse and neglect</a>. The consultation sought views on two possible reforms in relation to reporting and acting on child abuse and neglect:</p>	
<ul style="list-style-type: none"> <li>The introduction of mandatory reporting of child abuse and</li> </ul>	
<p><b>neglect.</b> This would require certain practitioners or organisations to report child abuse or neglect if they knew or had reasonable cause to suspect it was taking place. A range of sanctions for those who breach the duty could be made available.</p>	
<ul style="list-style-type: none"> <li><b>The introduction of a duty to act.</b> This would require certain practitioners or organisations to take appropriate action (which could include reporting) in relation to child abuse or neglect if they knew or had reasonable cause to suspect it was taking place.</li> </ul>	<p><a href="#">We reviewed Duty to Act as proposed by the Home Office here</a>. As stated by us earlier in this document, it is legally incoherent and unworkable in practice.</p>
<p>The consultation set out the possible benefits, risks and issues associated with both potential reforms. It also provided more information on their scope, including who might be subject to them, where accountability might rest and the possible sanctions for breaches.<sup>16</sup></p>	
<h2>Government response</h2>	
<p>In its response to the consultation, published in March 2018, the Government reported that a majority of respondents agreed that both a duty to act (51% of respondents) and a mandatory reporting regime (68% of respondents) would have an adverse impact on the child protection system.<sup>17</sup></p>	<p>The MR consultation was not even-handed – the absence of MR evidence as stated earlier in this review – was lamentable. Here’s a newspaper article on the day of launch – <a href="#">it was designed to strike fear into potential consultees</a>.</p>
<p>The Government stated that it had decided against introducing a mandatory reporting regime or duty to act:</p>	

<sup>16</sup> HM Government, [Reporting and acting on child abuse and neglect: Government consultation](#), July 2016, pp12-21.

<sup>17</sup> HM Government, [Reporting and acting on child abuse and neglect: Summary of consultation responses and Government action](#), March 2018, p3.

<p>Having considered all of the evidence and the views raised by the consultation, the Government believes that the case for a mandatory reporting duty or duty to act has not currently been made. Therefore, we do not intend to introduce a mandatory reporting duty or duty to act at this time.</p>	
<p>While recognising the argument that mandatory reporting could reduce the risk that serious cases pass unnoticed, the Government response raised a number of risks associated with a mandatory reporting duty or a duty to act. These included:</p>	
<ul style="list-style-type: none"> <li>• Even with an increase in referrals, this would not necessarily lead to an increase in subsequent engagement with children. It could also create a ‘needle in a haystack’ effect in which it is less likely that key cases are identified.</li> </ul>	<p>No evidence was provided by Government to support this assertion.</p>
<ul style="list-style-type: none"> <li>• A mandatory reporting duty could lead to less consideration of the most appropriate stage for referrals and result in a ‘tick box’ approach.</li> </ul>	<p>No evidence was provided by Government to support this assertion.</p>
<ul style="list-style-type: none"> <li>• Mandatory reporting will not itself improve the quality of practitioners’ judgement.</li> </ul>	<p>MR alone will not improve the judgement of Regulated Activities – no one other than Government has claimed it does. Accredited training with MR and a functioning DBS delivers step change improvements. <a href="#">This is data by Lamond on the extension of MR to education in NSW is 1987.</a></p>
<ul style="list-style-type: none"> <li>• If disproportionate attention is placed on referrals and reporting, organisations outside social care may be deterred from working effectively with children on lower-level issues and instead think that once a report is made they have discharged their responsibilities.</li> </ul>	<p>No evidence supports this assertion from any jurisdiction in the world that has MR.</p>
<ul style="list-style-type: none"> <li>• A duty to act does not itself support judgements about what action to take and “risks creating defensive barriers to effective decision making rather than trust in practitioners to discharge the obligations to act they already have.”</li> </ul>	<p>No evidence supports this assertion from any jurisdiction in the world that has MR.</p>
<ul style="list-style-type: none"> <li>• The increased intervention in the lives of children and families that is to be expected if mandatory reporting or a duty to act were introduced “may undermine confidentiality for those contemplating disclosure of abuse with victims more reluctant to make disclosures if they know that it will result in a record of their contact being made.” The Government’s response concluded:</li> </ul>	<p>Only one in eight case of child abuse come to the attention of the statutory agencies. No evidence supports the assertion about confidentiality from any MR jurisdiction in the world. This is the government’s default narrative.</p>

<p>Most fundamentally, the evidence and submissions received through the consultation has not demonstrated conclusively that the introduction of a mandatory reporting duty or a duty to act improves outcomes for children. This must be our guiding consideration when considering such a major reform of such a vital service.</p>	<p><a href="#">This makes England and Wales an outlier to the majority of jurisdictions in the world.</a></p>
<p>What the consultation has shown us, together with serious case reviews and Ofsted inspections, is that professional experience and other evidence generally does not find reporting to be a key issue in cases where a child is failed. Whether a child is already known to social care or not, translating practitioners’ knowledge of a child’s ongoing needs into appropriate support can be the difference between life and death. Such evidence suggested that issues around information sharing, professional practice and decision making are more likely to be at the crux of incidents where children do not receive the protection they need.<sup>18</sup></p>	<p>This could not be more incorrect. Please note, no data is provided to support the government’s claim. There are multiple data replete reports from MR jurisdictions that demonstrate MR places more than double the number of children into safety who would otherwise be invisible to the authorities.</p> <p><a href="#">Here’s an example presented to IICSA on 20.4.2019</a> which preceded this HoC Library briefing paper by 10 months. How was it omitted?</p>
<p><b>Box 3: Duty to report female genital mutilation (England and Wales)</b></p>	
<p>Under section 74 of the <i>Serious Crime Act 2015</i> teachers, health professionals and social workers in England and Wales are under a duty to notify the police if they discover that an act of female genital mutilation (FGM) has been carried out on a girl under the age of 18. The duty came into force on 31 October 2015. Further information is available in guidance published by the <a href="#">Home Office: Mandatory Reporting of Female Genital Mutilation – procedural information</a>.</p>	
<p>The Act did not introduce any new sanctions for failure to report FGM. The procedural information states that “failure to comply with the duty will be dealt with in accordance with the existing performance procedures in place for each profession.” The duty only applies to cases where FGM has already taken place (or is thought to have already taken place). In cases of suspected FGM a referral should be made to local authority children’s social care, in line with the Working Together guidance.<sup>19</sup> The Government’s consultation on reporting and acting on child abuse and neglect (see section above) stated that the duty was introduced “in order to address the particular issue of lack of successful prosecutions.”<sup>20</sup></p>	

<sup>18</sup> HM Government, [Reporting and acting on child abuse and neglect: Summary of consultation responses and Government action](#), March 2018, pp5-6.

<sup>19</sup> Home Office, [Mandatory Reporting of Female Genital Mutilation – procedural information](#), last updated 1 December 2016, pp11 &

<sup>20</sup> HM Government, [Reporting and acting on child abuse and neglect: Government consultation](#), July 2016, pp4-5.

2.2 Mandatory reporting in other countries	
Wales	
<p>Under section 130 of the <i>Social Services and Well-being (Wales) Act 2014</i> certain public bodies in Wales are under a duty to inform the local authority if they have “reasonable cause to suspect that a child” is:</p> <ul style="list-style-type: none"> <li>Experiencing or is at risk of abuse, neglect or other kinds of harm</li> </ul>	<p>Wales does not have Mandatory Reporting.</p> <p><a href="#">Here is IICSA’s summary of it.</a> The only other claimed MR that applied to organisational level reporting was in Queensland up to 2013. It failed and was scrapped by the <a href="#">Carmody Review</a> and replaced with mandatory reporting very similar to <a href="#">that proposed by Mandate Now</a>.</p>
<ul style="list-style-type: none"> <li>Has needs for care and support</li> </ul>	
<p>The duty came into effect on 6 April 2016. It applies to local authorities, police, providers of probation services, local health boards, NHS trusts and Youth Offending Teams (“relevant partners” of the local authority). The duty applies at an organisational level, rather than to individual working within these organisations. The Act did not create a sanction for failing to report a child at risk.<sup>21</sup></p>	<p>This relates entirely to agencies at organisational level. But the law provides no accountability (sanction) and therefore contains only ‘nominal’ responsibility.</p> <p><b>Note – personnel working in Regulated Activities in Wales (education, healthcare, sport, faith) must still go rogue and whistle-blow to do the right thing despite the counterfeit claim that Mandatory Reporting exists. Applying a counterfeit MR label to conceal the status quo is popular.</b></p> <p><b>Safeguarding in Wales remains reliant on whistleblowing which is the opposite of mandatory reporting.</b></p> <p>Suspected or known child abuse cannot be stopped unless a referral is made to the statutory agencies. Whistleblowing is discretionary. Mandatory reporting is essential.</p>
<p>Further information on the duty is available in statutory guidance published by the Welsh Government: <a href="#">Working together to safeguard people volume 1: introduction and overview</a> (pages 22 to 23).</p>	

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<sup>21</sup> Independent Inquiry Child Sexual Abuse, [Seminar briefing note: Mandatory reporting: Existing obligations to report child sexual abuse](#), p2.

<p>Other countries</p>	
<p>A briefing note published by the Independent Inquiry on Sexual Abuse noted that mandatory reporting laws exist in a number of countries internationally, including Australia, Brazil, Canada, Denmark, France, Hungary, the Republic of Ireland, Israel, Norway and the United States.</p>	<p><a href="#">Some form of mandatory reporting exists in 82% of the worlds developed nations – this excludes England, Wales and Scotland.</a></p> <p>Also not forgetting the more than 86% of European jurisdictions have some form of mandatory reporting. (Daro 2006, World perspectives on child abuse 7<sup>th</sup> Ed)</p>
<p>While noting that there is significant variation in how mandatory reporting works, both within and between countries, the briefing identified the core components of mandatory reporting laws:</p>	
<ul style="list-style-type: none"> <li>• <b>Who is covered by the duty:</b> most mandatory reporting laws specify a list of mandated reporters. These are most commonly people employed in education, health and social care. Some jurisdictions, however, have a lengthier list of mandated reporters and in a minority of jurisdictions mandatory reporting applies to all adult citizens (e.g. Australia’s Northern Territory and some US states). The duty usually applies to individuals but, as noted above, in Wales it applies to organisations.</li> </ul>	<p>Those to whom law applies are grossly understated in this briefing paper.</p> <p><a href="#">Here for example are the reporting requirements by prescribed personnel for all States in the USA.</a></p> <p><a href="#">Here are the reporting requirements for prescribed people in all States in Australia.</a></p> <p><a href="#">Not forgetting that more than 86% of European jurisdictions have some form of mandatory reporting law.</a></p>
<ul style="list-style-type: none"> <li>• <b>What must be reported:</b> mandatory reporting laws can focus on different categories of child abuse. The first mandatory reporting laws concerned only physical abuse. They now usually cover all forms of abuse, but they may use different thresholds for different forms of abuse.</li> </ul>	<p>See links to USA and Australia in preceding paragraph.</p> <p>The clarity of what ‘must’ be referred and to whom in mandatory reporting jurisdictions is mostly clear. <a href="#">Meanwhile in England and Wales the threshold for what Regulated Activities ‘should’ refer to the Local Authority</a> is set at the same level as <a href="#">the threshold that triggers a Section 47 investigation by social services and the police</a> which is a means of subcontracting a social work function to Regulated Activities who are unqualified for the task.</p>
<ul style="list-style-type: none"> <li>• <b>Who the report must be made to:</b> all mandatory reporting laws specify the agency to whom the report must be made. This is usually social services or child protective services but may be the police. In some jurisdictions, there is a dedicated agency whose remit is to receive reports.</li> </ul>	

<ul style="list-style-type: none"> <li>• <b>Sanctions for failing to report:</b> most, but not all, mandatory reporting laws provide for sanctions for failure to report. Such sanctions may be criminal in nature – i.e. a fine or custodial sentence (e.g. France). <b>Some jurisdictions, however, do not impose a sanction (e.g. New South Wales, Australia).</b></li> </ul>	<p>While this is technically correct another sentence would have given the reader a clear understanding of the situation in New South Wales. <b>After many years, the State removed the criminal sanction because it considered the culture of mandated reporting in the State, which commenced in 1987, was fully embedded.</b> <a href="#">Please see this extract from the presentation by Prof Ben Mathews at IICSA for a complete understanding of the facts which this ‘briefing paper’ does not provide.</a></p>
<p>Annex D of the Government’s consultation on reporting and acting on child abuse and neglect (see section 2.1 above) similarly set out the variations between mandatory reporting laws internationally. A table at the end of the annex then categorised international models of mandatory reporting according to these criteria.<sup>22</sup></p>	<p>Important articles were missing from the Government’s evidence.</p>
<p>The Annex also stated, however, that care should be taken when generalising about features of reporting systems and that “models of mandatory reporting may be best understood alongside a jurisdiction’s overall approach to child protection.” It explained:</p>	

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<sup>22</sup> HM Government, [Reporting and acting on child abuse and neglect: Government consultation: supporting annexes](#), pp18-20 & 30-35.

For example, some approaches are best conceptualised as family/child welfare oriented, with services provided to families to strengthen bonds and improve home life. Abuse is seen as part of a wider pattern of problematic relationships and behaviours. Areas with this type of system that have mandatory reporting include Denmark, Finland and Sweden; while Belgium, Germany and The Netherlands are examples of countries with similar systems but no mandatory reporting.

These four paragraphs have been copied word-for word from page 19 of the Home Office document [“Reporting and acting on child abuse and neglect Government consultation: Supporting annexes”](#)

No matter what child protection model is adopted, child sex abuse illegal and undesirable. Children’s services act to support abused children and end the abuse. Whatever is the preferred model for supporting abused children, the authorities cannot intervene if they not been made aware of the abuse occurring. Intervention in any form always starts with detection.

The newspaper [Deutsche Welle in 2020](#) reported that the German authorities are being overwhelmed by the amount of child abuse, including cases of organised child sex abuse rings. That Germany, like England and Wales, lacks mandatory reporting is not of itself an indication that all is well.

A paper in Child and Adolescent Psychiatry and Mental Health, [“Trends in child maltreatment in Germany: comparison of two representative population-based studies”](#) concluded amongst other things that “At present, the systems in place in Germany for monitoring the occurrence of child maltreatment are insufficient.”

A report [“Runder Tisch: Sexueller Kindesmissbrauch in Abhängigkeits- und Machtverhältnissen in privaten und öffentlichen Einrichtungen und im familiären Bereich”](#) (Round table: Child sexual abuse in relationships of dependency and power in private and public institutions and in the family sector) stated:

“The accounts of thousands of victims about sexual abuse and violence in institutions shocked society at the beginning of 2010. The fact that perpetrators were able to commit such numerous assaults shows a collective, but above all an institutional failure. Hundreds of times the institutions did not or at least not sufficiently assume their responsibility for the protection of those affected. **The heads of institutions and other responsible persons all too often found it more important to preserve the reputation of their house than the well-being of the children and young people entrusted to them.** Many acts were made possible or at least facilitated in a society that looked the other way or trivialized the deeds, while the supervisory authorities did not adequately fulfil their duties. And even those who wanted to make a serious effort for their protégés often overlooked the warning signs and the signs of need for

	help.” The report, over 267 pages, explores the situation in Germany and possible ways of improving it.
Other types of approaches can broadly be conceptualised as child protection oriented, where abuse is seen as an aberrant behaviour that needs to be identified and acted upon. Particular families are identified as a ‘problem’ and then monitored. This is the type of system that would best describe that in England. Other examples include Canada, USA and Australia.	A notable point here is that Canada, USA and Australia are jurisdictions with MR.
There is, however, decreasing differentiation between systems as investigative systems seek to become more family support oriented and welfare centric systems implement greater regulation and process...	The statutory framework is developed from social work practice which is dominated by child neglect within the family. <a href="#">This framework is then misapplied</a> to complex but strategically important Regulated Activities <a href="#">which have entirely different demands and roles to family members</a> and are key to extended improved safeguarding in wider society.
Mandatory reporting tends to be more prevalent in investigative systems, which focus on identifying abnormal behaviours rather than necessarily working systematically with families to improve home life. <sup>23</sup>	This is conflating social work with the role of Regulated Activities which act as eyes and ears for social work. Their role is imperative, but nothing can be done to improve the child’s situation without information coming to the attention of the Local Authority from these important roles. This paragraph reveals the government’s ideological approach to safeguarding which is against the interests of those working in Regulated Activities and also the children in their care.
The annex also included a discussion of the effectiveness of mandatory reporting in addressing child abuse and neglect. It concluded that “there is no academic consensus concerning the effects of mandatory reporting on child safety outcomes.” As a result, it added, it is not possible “to make firm conclusions about whether such schemes improve, worsen, or have no effect on child safeguarding outcomes.” <sup>24</sup>	To reach this conclusion the government chose article and evidence selectively. This claim suggests that 82% of nations that have Mandatory Reporting have made a mistake. <a href="#">The perspective of a UK academic.</a>

Reviewed published by Mandate Now DATE

<sup>23</sup> HM Government, [Reporting and acting on child abuse and neglect: Government consultation: supporting annexes](#), p19.

<sup>24</sup> HM Government, [Reporting and acting on child abuse and neglect: Government consultation: supporting annexes](#), p20.