

## **Mandatory reporting of suspected child abuse**

### **Purpose**

For discussion and direction.

### **Summary**

The Department for Education will shortly launch a consultation on mandatory reporting of child abuse. This report sets out the arguments for and against mandatory reporting in light of international evidence, and outlines the alternative option of introducing new sanctions for failure to act. It also includes a summary of the LGA's public comments on this topic to date.

### **Recommendation**

Members are asked to advise on the LGA's future policy position around mandatory reporting / failure to act provisions, with further discussion to follow once a full consultation has been launched.

### **Action**

Officers to take action as directed by members.

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## **Mandatory reporting of suspected child abuse**

### **Background**

1. The Department for Education will shortly launch a consultation on mandatory reporting of child abuse, fulfilling commitments made by the previous government in late 2014 and reiterated in the Conservative Party manifesto. The consultation will run for 12 weeks, and is expected to launch in early 2015.
2. Mandatory reporting is broadly defined as a legal duty imposed on certain groups, professionals or organisations to report suspected or known cases of child abuse and neglect to relevant authorities. In England, the relevant authority is likely to be local authority children's social care.
3. Details of the consultation have not yet been made public, but the tackling child sexual exploitation report (published in March 2015) stated that, as part of any consultation on mandatory reporting, the Government would also:
  - 3.1. *consult on options for imposing sanctions for failure to take action on abuse or neglect where it is a professional responsibility to do so; and that this will include considering an extension to the 'wilful neglect' offence to children's social care, education and elected members.*
4. We therefore expect that the consultation will include consideration of the introduction of a system of mandatory reporting of child abuse and neglect or an alternative duty which focuses on failure to take action in relation to such concerns.
5. It is likely that any new duty would apply to practitioners and/or organisations undertaking defined activities, covering a range of agencies including local authorities, schools, emergency services, health and probation services. It may also cover individuals who do not necessarily come into close contact with children on a regular basis, such as housing officers or elected members, and those in administrative or support roles, such as dinner ladies or school secretaries. It would not, however, extend to members of the public.

### **Arguments for and against mandatory reporting**

6. Supporters of mandatory reporting argue that it would lead to more cases of abuse and neglect being identified, and at an earlier point in a child's life, than in the current system. Cases such as the tragic death of Daniel Pelka, where individuals failed to act urgently and appropriately when they observed signs of abuse, are often highlighted as examples where mandatory reporting may have made a difference. Similarly, in Rotherham, Rochdale and Oxfordshire, practitioners failed to listen and act when children reported child sexual exploitation.
7. However, those against mandatory reporting argue that it would encourage a culture of reporting rather than acting, discouraging preventative activity in favour of 'passing the buck' to children's social care. There is also a fear that children's social care could

become swamped by inappropriate referrals, making it more difficult to identify serious cases amongst a deluge of individuals reporting every small suspicion for fear of being in breach of the law. This is a particular concern in light of the significant rise in demand for children's social care services, with the number of children on child protection plans increasing by more than 60% since 2008.

### **International evidence**

8. In 2014, the Home Office commissioned a review of evidence from jurisdictions around the world that have a system of mandatory reporting in place, most notably in the United States, Australia and Canada. The report was unable to draw any firm conclusions on the potential effects, positive or negative, that may come from mandatory reporting, but did find some indicative evidence that such systems may increase the number of reports while lowering their overall quality.
9. Furthermore, South Australia is now considering abolishing its own mandatory reporting system, in place since the 1970s, due to concerns that the volume of referrals makes substantiation extremely difficult. One in four children under the age of 18 is subject to a referral to children's social care in South Australia, with the result that only 6,500 notifications from a total of 44,000 were investigated during the last financial year.

### **Failure to act**

10. The alternative option may be to introduce new sanctions for failure to act, which would consider actions taken by individuals and organisations in relation to child abuse and neglect. This would focus on those who fail to take action for reckless or malicious reasons, or because they were indifferent to the harm, or potential harm, that might be caused.
11. A failure to act sanction would include failure to report where appropriate, but would not presume that all cases must be reported in all circumstances. This would allow individuals to exercise professional judgement when deciding whether preventative activity may be more appropriate than a formal referral to children's social care in some circumstances.

### **LGA lines**

12. The LGA has commented on the potential for mandatory reporting provisions in the past, most notably during discussion of Baroness Walmsley's proposed amendment to the Serious Crime Bill in 2014:
  - 12.1. *We agree that child abuse should always be reported to the relevant authorities, and it is clear that some of the existing processes for doing so have not always worked effectively in the past. It is important that all agencies work harder to create a shared culture of moral responsibility, in which people know how to raise the alarm and feel confident that if they come forward with legitimate concerns those concerns will be dealt with in a swift, proportionate and effective way.*

*12.2. We must be careful to avoid creating a situation where the social care system is swamped with unnecessary referrals because professionals lack the courage or confidence to take responsibility, exercise their judgement and act appropriately. It is vitally important that social services resources are used effectively, and that any reform does not have the unintended consequence of overloading the system with cases where the child is clearly not in danger of abuse or neglect.*

13. We have, however, yet to make a clear statement either for or against mandatory reporting or the alternative of failure to act, preferring to wait for the detail of proposals before responding. It would, however, be helpful to begin that discussion now, to inform our policy position ahead of the formal consultation.