

# Mandatory reporting duty – Scotland.

## Briefing Paper

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### Summary

In Scotland, there is no legal requirement to report concerns about a child's welfare. Section 2.1 of the National Guidance for Child Protection details that all agencies have a responsibility to recognise and actively consider potential risks to a child, regardless of whether the child is the focus of their involvement.<sup>i</sup>

In practice, without legal requirements in Scotland, many cases of child sexual abuse remain unreported, leaving children at risk and denying them access to support and justice.

**A mandatory reporting duty must be introduced to ensure that child sexual abuse is reported and dealt with appropriately and in a timely manner in Scotland.**

### Key considerations for the Mandatory reporting duty:

- **Criminal sanctions for failing to report abuse**
- **The duty to report to include suspected abuse and reasonable grounds for suspicion.**
- **The duty to apply to those in regulated activity and all areas of practice with children and young people.**
- **Faith communities should be included and equipped in the mandatory reporting duty.**

#### ► **Criminal sanctions for failing to report child sexual abuse:**

**International studies of mandatory reporting laws show that well-designed mandatory reporting measures with criminal sanctions for**

**non-reporting have a large positive impact on the number of children protected.<sup>ii</sup>**

Without criminal sanctions for failing to report child sexual abuse, the mandatory reporting duty will not ensure reports are made, leaving children at further risk of harm.

#### ► **The duty to report to include suspected abuse and reasonable grounds for suspicion.**

**Most children do not or cannot disclose their sexual abuse. This includes babies, disabled children who are non-verbal or children who do not have English as a first language. The onus should not be on a child to protect themselves by directly disclosing their sexual abuse.**

According to the NSPCC, only about half of those who disclose make a "direct and purposeful" disclosure.<sup>iii</sup> Without a mandatory reporting duty which includes suspected abuse, minimal additional cases will be raised.

To strengthen any mandatory reporting duty, it must include suspected abuse and not just rely on witnessed or disclosed abuse.

## ► **The duty to report to apply to those in regulated activity and all areas of practice with children and young people.**

**The mandatory reporting duty should apply to all those in regulated activity and include all areas of practice with children, including the voluntary sector such as faith and sport settings.**

In Scotland, the existing scope of Positions of Trust legislation in Scotland is very limited, only focused on a list of roles working with children in statutory services. This does not currently include other key areas where children engage with adults such as faith and sport settings.

To strengthen any proposed mandatory reporting duty, Positions of Trust legislation requires an update to consider all environments where 16- and 17-year-olds engage with adults who have a position of responsibility over them.

## ► **Faith communities should be included and equipped in the mandatory reporting duty.**

**Many faith communities will be the sole organisations interacting regularly with children and young people within the context of their families.**

The legislation needs to have provisions for and understanding of these groups. There is an opportunity to safeguard children and young people well in these communities, but it starts by working together and including them in the conversation as partners.

Co-production with all faith communities. There needs to be consideration for engaging with faith groups that are 'harder to reach' and, in some cases, resistant to law and best practice. Engagement with faith communities across the board is key to understanding how the proposed legislation will apply to them, to

increase their awareness of child sexual abuse and relevant responsibilities.

## Conclusion

**An effective mandatory reporting duty requires the following:**

- **An offence carrying a criminal sanction applicable to individuals who do not report.**
- **The duty to report to apply to suspected sexual abuse and reasonable grounds for suspicion, as well as to disclosed and witnessed sexual abuse, with the reporter personally responsible for informing the authorities.**
- **The duty to apply to those in regulated activity and all areas of practice with children and young people.**
- **Equipping and training to be provided for all communities who will be expected to be mandated reporters to ensure understanding and expectations under the duty.**

## References:

<sup>i</sup> [gov.scot/publications/advice-and-guidance/2023/08/national-guidance-child-protection-scotland-2021-updated-2023.pdf](https://www.gov.scot/publications/advice-and-guidance/2023/08/national-guidance-child-protection-scotland-2021-updated-2023.pdf)

<sup>ii</sup> [pubmed.ncbi.nlm.nih.gov/27155543/](https://pubmed.ncbi.nlm.nih.gov/27155543/)

<sup>iii</sup> [learning.nspcc.org.uk/media/1052/no-one-noticed-no-one-heard-report.pdf](https://learning.nspcc.org.uk/media/1052/no-one-noticed-no-one-heard-report.pdf)

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