

Summary

The IICSA public inquiry recommended the introduction of mandatory reporting of child sexual abuse specifically with a criminal sanction for not reporting.

On the 16th of January 2025 the Home Secretary stated that the Home Office would implement the IICSA mandatory reporting recommendation “in full”ⁱ.

The Section 66 duty to report does not fulfil this undertaking because it lacks the criminal sanction for non-reporting and suspicions of abuse which was the defining characteristic of the IICSA recommendation.

Key considerations for the Mandatory reporting duty:

- **Criminal sanctions for failing to report child sexual abuse**
- **The duty to report child sexual abuse to include suspected abuse and reasonable grounds for suspicion.**
- **Protections for those who report in good faith**

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

The government in various public statements has mentioned that there would be professional sanctions for non-reporting. There is no provision for such professional sanctions in the Crime and Policing Bill.

Recommendation 13 of the IICSA final report specifically recommended mandatory reporting

with a criminal sanction for failure to make a mandated report.ⁱ

International studies of mandatory reporting laws show that a well-designed mandatory reporting measure with a criminal sanction for non-reporting has a large positive impact on the number of children protected.ⁱⁱ

► **The duty to report child sexual abuse to include suspected abuse and reasonable grounds for suspicion**

The Section 66 duty is limited to witnessing an offence, disclosure of an offence by a victim or perpetrator, or seeing or hearing a recording of an offence, all of which are rare in the context of child sexual abuse.

IICSA documented no examples of a perpetrator disclosing their abuse, either directly or by making an image or recording available. Most cases documented by IICSA in its investigations involved abuse that was suspected for other reasons (e.g. medical evidence, behaviour of the child or suspicious behaviour by an adult) but this evidence was not passed to the authorities.

According to ONS^v fewer than 10% of children disclose their abuse to a person in authority, somebody who in turn might be subject to the duty to report. According to NSPCC^{vi}, only about half of those who do disclose in some fashion make a “direct and purposeful” disclosure.

Therefore, the cases that would trigger the Section 66 duty are relatively rare. Most children do not or cannot disclose their abuse and therefore gain no protection from this measure.

IICSA spent several years in preparing this recommendation, having considered the evidence of abuse that occurs in England and Wales and having considered the rights of the child under various international conventions.

This puts the onus on the child to protect themselves by directly disclosing their sexual abuse.

► **Protections for those who report in good faith**

In almost all respects, a person making a Section 66 report is an unprotected whistleblower.

The protection for reporters under Section 66 (10) which states that a report does not breach any obligation of confidence or restriction on the disclosure of information. This protects the reporter from action by the statutory authorities for improper disclosure but does not provide any protection against retaliation by the reporter’s employer or anybody else.

Section 73 describes the offence of “Preventing or deterring a person from complying with duty to report suspected child sex offence”. This offense would offer little help in organisations hostile to reporting child sexual abuse there is rarely any explicit threat which could be used as evidence on which to base a prosecution. IICSA found that many organisations had an unspoken code of silence in relation to reporting child sexual abuse and this therefore would not be covered by section 73.

The protections do not exist for reporters when they report suspicions of abuse as this is not currently included in the current provisions of section 66 of the Crime and Policing Bill.

Conclusion

An effective mandatory reporting measure requires three key components, none of which is present in the current Section 66 duty:

1. The duty to report applies to suspected abuse and reasonable grounds for suspicion, as well as to disclosed and witnessed abuse, with the reporter personally responsible for informing the authorities.
2. There is an offence carrying a criminal sanction applicable to individuals who do not report.
3. Those making reports in good faith are protected from retaliation, where anyone taking such action commits a criminal offence.

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References

ⁱ gov.uk/next-steps-to-tackle-child-sexual-exploitation

ⁱ pubmed.ncbi.nlm.nih.gov/the-impact-of-new-mandatory-reporting-law-on-reporting-behavior

ⁱⁱ pubmed.ncbi.nlm.nih.gov/Impact-of-a-new-mandatory-reporting-law-on-reporting-and-identification-of-child-sexual-abuse-A-seven-year-time-trend-analysis

ⁱⁱⁱ pubmed.ncbi.nlm.nih.gov/Mandated-reporting-is-still-a-policy-with-reason-empirical-evidence-and-philosophical-grounds

^{iv} [mdpi.com/ Mandatory Reporting Laws and Identification of Child Abuse and Neglect: Consideration of Differential Maltreatment Types, and a Cross-Jurisdictional Analysis of Child Sexual Abuse Reports](https://mdpi.com/Mandatory-Reporting-Laws-and-Identification-of-Child-Abuse-and-Neglect-Consideration-of-Differential-Maltreatment-Types-and-a-Cross-Jurisdictional-Analysis-of-Child-Sexual-Abuse-Reports)

^v [ons.gov.uk/child sexual abuse in england and wales/year ending march 2019](https://ons.gov.uk/child-sexual-abuse-in-england-and-wales/year-ending-march-2019)

^{vi} learning.nspcc.org.uk/no-one-noticed-no-one-heard-report.pdf