

## Section 1: Who the duty should apply to

**Q5. Is the range of ‘mandated reporters’ set out by the recommendation (people working in regulated activity with children under the Safeguarding and Vulnerable Groups Act 2006, people in positions of trust as defined by the Sexual Offences Act 2003 and police officers):**

- Appropriate
- **Too narrow**
- Too broad
- Don't know

Please provide details to explain your response.

Depending on the final details of the scheme, and how we are able to implement it, within our context this definition may be too narrow. If we implement this at the level of clergy, then they are deemed to be in regulated activity and covered by the position of trust provision. However, beyond that, there are very few roles within the Church of England which comprise regulated activity as per the legal definition, despite the fact that almost all lay roles (paid or volunteers) comprise a degree of working with children and/or vulnerable adults, and are therefore likely to witness abuse or receive a disclosure.

If we were to implement mandatory reporting at diocesan level, the majority of reports would come from those out with the definition, for example, Diocesan Safeguarding Advisors/Cathedral Safeguarding Advisors (due to change to Officers next year) are not in regulated activity, despite being the professional safeguarding support to dioceses. If mandatory reporting went down to the level of the Parish Safeguarding Officer, who is generally the first person to deal with any potential safeguarding issues, again these are not in regulated activity, and are part-time volunteers who are unlikely to want to take on such a responsibility.

Therefore, we would like the ability to designate specific (and limited) roles within our organisation in order to implement this duty to the best effect.  
Please also refer to our answer to Q21.

**Q6: At what level should mandatory reporting apply?**

- Only at an individual level
- Only at an organisational level (bodies, institutions or groups)
- **Both individual and organisational level**
- General duty on adult population
- Don't know

**Q7: [If respondent selected 'Only at an organisational level (bodies, institutions or groups)' or 'Both individual and organisational level' in response to the above question] Which organisations or groups should it apply to?**

There should be an individual responsibility to report, with those subject to that responsibility clearly defined.

However, it will need to be clear what the organisational responsibility would be. This is due to the significant number of individual legal entities which comprise the Church of England, almost all of whom are registered with the Charity Commission and therefore have their own organisational legislative duties to fulfil, for example in relation to Serious Safeguarding Incidents.

Please also refer to our answer to Q21.

**Q8: If there was a mandatory reporting duty at an organisational level, should those impacted be required to report on their activity annually?**

- Yes
- No
- Don't know

**Q9: [If respondent selected 'Yes'] What form should that reporting take?**

The report should be as simple as possible, collating only statistical data, utilising existing annual reports where possible.

## **Section 2: Scope of the duty**

**Q10: Should a mandatory duty to report go beyond the scope recommended by the Inquiry and cover other/all types of abuse and neglect?**

- Yes
- No
- Don't know

**Q11: [If respondent selected 'Yes'] Which types of abuse and/or neglect do you think should be covered?**

We would urge caution with this particular question, which needs to link to the reason behind introducing this scheme. Is it simply to address the IICSA recommendation 13 which is very specific, or is it to overhaul and improve the way child abuse generally is dealt with? It is important that however the scheme ends up being implemented, it compliments, and is cohesive with, the Government's current children's social care strategy.

There are positives and negatives to both approaches. If it remains at sexual abuse only, the signs and symptoms are not always going to be visible, particularly in our context, and they are not restricted to only one type of abuse. Clarity would be needed to cover cases where the abuse has been reported as, say, physical abuse and not through the mandatory route, but sexual abuse is subsequently discovered further down the line, and vice versa.

Introducing mandatory reporting to cover all cases of abuse is very likely to lead to a significant increase in the number of low level concerns being reported to statutory services, which will then take their focus away from the most serious cases. This will also remove decision making from a range of current professionals, and seems to be contrary to the ethos of early intervention and family support.

On balance, it would seem sensible to introduce mandatory reporting of child sexual abuse first, with a provision that it can be extended to other types of abuse once an evaluation has been carried out.

In our particular context, our main reporting of child sexual abuse is generally once that person has become an adult. We would require clarity around the mandatory reporting requirements in these particular cases.

**Q12: What impacts (positive or negative) do you think a mandatory reporting duty would have on:**

- Children choosing to make a disclosure, either partially or in full  
This will encourage some children and discourage others. The important aspect to avoid adverse effects will be the way in which the scheme is rolled out and communicated to children, including the key messages about what the scheme is designed to achieve.
- Individuals within scope of the duty reporting known / suspected incidents  
Depending on the detail of how this is implemented, there will of course be training required and new processes set up. It is important that adequate lead in time is built in to allow large organisations such as ourselves to ensure processes and individuals are ready. Please also refer to our answer to Q21.
- Organisations within scope of the duty reporting known / suspected incidents  
As above, processes and training will be required.
- Individuals outside the scope of the duty reporting known / suspected incidents  
This is not a question we are able to answer.
- Organisations outside the scope of the duty reporting known / suspected incidents

This is not a question we are able to answer.

- Agencies in the wider safeguarding system that are required to respond to reports of abuse.

We are extremely concerned about the impact this will have on those agencies who are required to respond, specifically on their capacity to do so. We respond to this in more detail in Q22 & Q25.

- Members of the public  
[Open text response]

This is not a question we are able to answer.

**Q13: At what level of knowledge should a mandatory reporting duty apply?**

- Restricted to known incidents of abuse
- Both known and suspected incidents of abuse (based on recognised indicators of abuse)

[Option to select one of the above and then open text box: Please provide details to explain your selection]

Currently, our guidance is to report any concerns to the safeguarding professional within the organisation, we don't encourage people to wait until they are sure of have proof. Given that any safeguarding professional in our context would be reporting suspected child abuse in any event, it would seem to make sense that mandatory reporting applied. However, it needs to be acknowledged that even though there are recognised signs of abuse, there is still a professional judgement and interpretation to be made.

Whether statutory agencies take that report forward is a different matter and subject to their own capacity, thresholds or evidence criteria.

**Q14: What should be considered a 'disclosure' of abuse?**

We would not consider "disclosure" as limited to something which is proactively being said by a child, as this is not common in our experience. We would also count as "disclosure" recognised signs and behaviours, including through art or storytelling. We therefore urge extreme care with the definition of a "disclosure", in order that it is based on current evidence of how abuse comes to light in children, and does not disadvantage those who are very young, have communication difficulties or any other special needs. There would need to be very clear guidance about what would be considered enough evidence to trigger the mandatory reporting route, given the interpretation and judgment referred to above.

We would also require clarity about how 3<sup>rd</sup> party disclosures would be dealt with under a mandatory duty to report.

**Q15. The Inquiry calls for ‘recognised indicators of child sexual abuse’, which are unspecified, to be set out in guidance and regularly updated – how would you rate your own personal level of confidence in spotting indicators of child sexual abuse?**

Option to score 1-10 [1: low confidence, 10: fully confident] Not applicable

Not applicable

**Q16. How would you rate your sector’s current level of confidence in spotting indicators of child sexual abuse?**

Option to score 1-10 [1: low confidence, 10: fully confident] Not applicable.

At an organisational level, we provide detailed guidance on indicators of **all** types of abuse (including adults), and this is updated regularly. Our Diocesan Safeguarding Advisors/Cathedral Safeguarding Advisors/National Safeguarding Team caseworkers are experienced safeguarding professionals, and therefore we would have a high degree of confidence in their ability.

### **Section 3: Sanctions for failure to report**

**Q17. What is your view on the Inquiry’s proposal that a breach of the mandatory reporting duty should constitute a criminal offence?**

- Strongly agree
- Agree
- **Neither agree nor disagree**
- Disagree
- Strongly disagree
- Don’t know

This would depend on where the responsibility to report would sit. If it sat only with those outlined in the recommendation, then there are professional sanctions which would apply in any event, as with mandatory reporting of Female Genital Mutilation.

Making it a criminal offence sends a very strong message, but could have unintended consequences in that those subject to the duty may end up over reporting. The specific context is also relevant. For example, it may be appropriate to have an offence for someone who deliberately intended to mislead by not reporting (and how that may be evidenced), as opposed to not reporting due to being unsure, or, more likely, not being in full possession of all the relevant facts.

**Q18: Do you believe that any other types of sanction should apply to breaches of the mandatory reporting duty (for example professional disqualification for individuals, or regulatory action in respect of organisations)?**

- Yes
- No
- Don't know

This is something which can be written into our own "legislation" via Safeguarding Code of Practice, meaning that there is a duty to comply with any mandatory reporting requirements, and that failure to do so may mean the individual is subject to action under the Clergy Discipline Measure, a disciplinary hearing, or termination of their voluntary duties. In addition, safeguarding professionals who have their own professional regulation, e.g. registered social workers, would also be subject to those processes.

**Q19: What is your view on the exception to the duty described in the recommendation (to avoid capturing consensual peer relationships)?**

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know

This exemption is already in place in other statutory guidance.

**Q20: Is this exception likely to cause any particular difficulties?**

- Yes
- No
- Don't know

As above, it is already in place, however it is also always a judgement call on the behalf of the individual.

Clear guidance would be needed around consensual relationships, and also around peer on peer abuse.

**Q21: Do you think there should be any other exceptions to the duty which mean sanctions should not be applied?**

- Yes
- No
- Don't know

Like many other historic churches, the Church of England includes in its practices the ministry of Confession and Reconciliation. In this ministry, someone can come to a priest and disclose anything they feel they may have done wrong. It is the practice of the Church of England, the Roman Catholic Church and Orthodox Churches to guarantee absolute confidentiality of what has been disclosed. This is often known as 'the Seal of the Confessional'. The Seal is referred to in Canon Law, although the interpretation of the relevant legal provisions is contested.

This is a very restricted and circumscribed practice, also called 'sacramental confession'. Absolute confidentiality does not apply in Canon Law to any other setting where confessions may be made as part of pastoral ministry, but only in the sacramental ministry of confession. This practice is not very widely spread in the Church of England, however, for those who practice it, it is held very strongly. It offers a safe space for someone to begin to acknowledge what they may have done, and start the journey towards change, including, if appropriate, be guided towards handing themselves in to the police. For those who do practise this ministry in the Church of England, it is a very important aspect of their ministry as priests. They share this view with the priests of the Roman Catholic Church, where this ministry is much more common, if not universal. Clergy in the Church of England who practise this ministry would often follow Roman Catholic teaching on this practice, as well as Church of England Canon law.

It is the view of those who practice this ministry that any breach of the Seal of the Confessional would irretrievably damage the practice, and introduce a 'chill factor' that would prevent those who have not committed reportable offences but simply want a safe space to process their own lives from accessing the support and help they may need. This view is not uncontroversial within the Church of England. Others would argue that the protection of children and vulnerable persons is always paramount and that absolute confidentiality should never be offered. Because the Church of England recognises historic abuses of the Seal of the Confessional, and is aware of the need to balance out appropriate protection for all and freedom of religion, it has set up a working group on the Seal of the Confessional to enable an integrated conversation and decision-making process on how the practice of sacramental confession and absolution should proceed. The working group will report to the House of Bishops in October 2023 and the House of Bishops will consider whether, and how, the ministry of reconciliation should be framed with regards to reporting.

We would urge the government to consider carefully questions of religious freedom and to take heed to different churches' response on this matter.

## Section 4: How to ensure successful implementation

**Q22: Can you foresee any overlap or tension with your or others' existing duties or professional requirements which may be introduced by a mandatory reporting duty?**

- Yes
- No
- Don't know

We can foresee issues with the statutory services capacity to react to an increase in reporting, and we would strongly encourage the government not to implement a mandatory duty to report until that capacity exists.

**Q23: Do you believe the introduction of a mandatory reporting duty raises any equalities considerations? For example, positive or negative impacts on groups with protected characteristics.**

- Yes
- No
- Don't know

Evidence shows that children with disabilities, special needs and/or communication difficulties are more likely to be abused, but that abuse is more likely to be under reported. The scheme would need to be designed with specific regard to what "disclosure" and "suspected/actual" looked like in these cases in order to have a positive rather than a detrimental impact on these groups.

**Q24. What, if any, kind of protections do you think would need to be in place to ensure individuals making reports in good faith do not suffer personal detriment as a result?**

It is hard to envisage how this would happen at a statutory level, other than possibly looking at similar provisions to those provided to whistle-blowers. This would ensure that reporters would not be penalised unless there was evidence that the report was malicious. It is better to approach this from the perspective of ensuring that reports which are made are done so professionally, accurately and factually.

Within our organisations, we would look to encompass this within our Codes of Practice, to make it clear and widely communicated that individuals/organisations are under a duty to report and therefore must do so. We would additionally need to provide templates, training and spot checks to ensure it can be evidenced that reports have been made in good faith.



**Q25: Should any additional reforms should be implemented to ensure that a mandatory reporting duty successfully safeguards and protects children?**

- Yes
- No
- Don't know

There **must** be sufficient capacity within the statutory services to respond to the increased number of reports. There is no point in designing and implementing a scheme when there is no capacity to deal with the end result. If there is not, this will only result in thresholds being set even higher, which will defeat the whole purpose of the Recommendation.

We strongly urge the Government to ensure adequate capacity exists before implementing any such scheme.

From our own perspective, there will be work required with some (not all) local agencies on the ground in order that they do understand the context within which we operate, and the gravity of the matters we often deal with.

**Q26: Where should reports be made to?**

- Local Authority
- Police
- elsewhere (please specify)

Current practice is to make a referral to the most appropriate body to deal with it.

That is, if there is clear evidence of a crime, then this is reported straight to the police. If there is suspicion, or concern, or the police are not taking further action, then the matter can be referred to the local authority. Mandatory reporting should follow the same practices, and this will depend on what is ultimately agreed as the criteria for making the report.

**Q27: The Inquiry recommended that “reports from suspicions or knowledge of abuse should be made as soon as practicable”. Should timescales from the point of suspicion/knowledge be defined more specifically?**

- Yes
- No
- Maybe
- Don't know

There is no doubt that if a child is at immediate risk then statutory services should be contacted immediately. Out with those situations, there should be a timescale specified in order that there is no undue delay, however accepting that doing so can cause reports to be made prematurely, or put pressure on those reporting. Similarly,

it may put pressure on an older child/young person, who needs some time to process before approaching statutory services.

Timescales which are very short, eg 24 hours, additionally are a challenge for those organisations such as ourselves which do not have 24/7 safeguarding cover.

**Q28: Would your organisation need to make any changes in order to ensure the successful implementation of a mandatory reporting duty?**

- Yes
- No
- Don't know

We would need to ensure training and communication had been undertaken and that processes were in place for reporting and monitoring.

**Q29: Would you as an individual need to make any changes in order to ensure the successful implementation of a mandatory reporting duty?**

- Yes
- No
- Don't know

Not applicable

**Q30: Are there any concerns, including the need for additional support, that you would like to flag for your sector?**

- Yes
- No
- Don't know

Please refer to our response to question 20 with regards to the Seal of the Confessional.

We again urge the Government to allow sufficient lead in time to develop policies, processes, training within large organisations such as ourselves.

**Q31: Are there any additional considerations to ensuring that your sector's workforce or volunteers can meet any new mandatory reporting responsibilities?**

- Yes
- No
- Don't know

As already answered.

**Q32: Besides introducing mandatory reporting, are there any changes that could improve disclosures / reporting / investigations and prosecution of child sexual abuse?**

We are surprised at this question as it is so vast it deserves to be an entire consultation in its own right, rather than tacked on the end of a lengthy questionnaire. There are many changes that we believe could be made, and we highlight the key ones below. However, the overriding issue is how any changes are consistent with and support the overall reform set out in *Stable Homes: Built on Love*, and that all such changes are adequately funded.

- More capacity is needed throughout the entire system
- Cases of child abuse could be fast tracked
- The process (as apart from the individuals working in it) is not child friendly
- Remove the requirement for the child to give evidence in chief (as per Scottish and American systems) Increased access to therapeutic support from the point of disclosure
- System where children give their account only once
- More flexible service, seeing children at weekends thus allowing school to be maintained as safe space

We strongly urge the Government to consider further work on the entire system, including ensuring that all reforms are adequately funded.

**August 2023**